



Review paper

Unraveling the Constitutional Fabric: Assessing the Implications of India's Absolute Right to Religion on Democratic Principles

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KEYWORDS	ABSTRACT
Religious freedom	<p>India's constitutional commitment to religious freedom was envisioned as a foundational pillar to uphold the nation's long-standing tradition of spiritual diversity and pluralism. This principle was meant to ensure that every individual could freely practice and propagate their faith, thereby fostering a harmonious coexistence of multiple religious communities. However, the practical implementation of this right has revealed critical tensions, particularly when absolute and unregulated religious freedoms are leveraged by radical or aggressive ideologies that disrupt social cohesion and challenge the democratic fabric of the nation.</p> <p>This study undertakes a civilizational analysis of India's approach to religious liberty, with a specific focus on the implications of Islamist radicalism in the contemporary socio-political landscape. It argues that the current interpretation of secularism in India—often marked by an excessive deference to minority sensitivities and a dilution of the majority's cultural ethos—has created a structural imbalance. Unlike nations such as Poland or Russia, which consciously preserve a cultural-religious core to maintain their national identity, India has often suppressed its civilizational majority voice, particularly that of Sanatan Dharma, in the name of a misapplied secular ideal.</p> <p>Through a critical re-examination of constitutional morality, national integration, and public order, this paper posits that unrestrained religious expression—when it undermines civil peace and national unity—must be addressed through a more nuanced legal and civilizational framework. It emphasizes that the protection and revitalization of Hindu cultural unity and Sanatan values are not antithetical to democracy but are in fact crucial for safeguarding India's pluralistic fabric. By realigning its secular ethos with its civilizational roots, Bharat can better navigate the complexities of religious freedom while reinforcing democratic resilience and social harmony.</p>
Democratic fabric	
Socio-political landscape	
Secularism	
Spiritual pilgrimage	
Religious freedoms	

1. Introduction

India, known traditionally as Bharat, represents a unique confluence of ancient civilizational continuity and modern democratic governance. Unlike many modern nation-states that emerged as a result of colonial restructurings or the disintegration of imperial powers, Bharat's identity as a nation is deeply rooted in a timeless cultural and spiritual heritage that far predates the contemporary nation-state model. At the heart of



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this enduring civilization lies Sanatan Dharma—a worldview that transcends sectarian boundaries and emphasizes a holistic understanding of life based on principles of cosmic harmony, social justice, and spiritual freedom.

The modern Indian Republic, established in 1950 with the adoption of the Constitution, was founded on democratic ideals that sought to accommodate its diverse cultural and religious fabric. The framers of the Indian Constitution, drawing inspiration from both ancient Indian values and modern liberal philosophies, enshrined the principle of religious freedom in Articles 25 to 28. These provisions were designed to ensure that all citizens could freely profess, practice, and propagate their religion while simultaneously subjecting such freedoms to reasonable restrictions in the interests of public order, morality, and health.

However, as Dr. B.R. Ambedkar—the principal architect of the Indian Constitution—pointed out, religious liberty must not override the foundational obligations of the state. He asserted that "religious liberty must be subordinate to the needs of the state." This critical caveat was meant to ensure that the exercise of religious freedom would not compromise national integrity, civic harmony, or social stability. Unfortunately, over the decades, these qualifications have often been overlooked or unevenly applied, resulting in judicial and administrative ambiguities.

This constitutional vagueness has, in recent times, been strategically exploited by certain radical religious ideologies. Particularly, aggressive Islamist movements and expansionist evangelical missionary activities have used the liberal framework of religious freedom to advance ideological agendas that, critics argue, are incongruent with the pluralistic ethos of Indian society. These movements have not only contributed to episodes of civil unrest and intercommunity tension but have also led to noticeable demographic shifts, the marginalization of indigenous religious and cultural traditions, and, arguably, a weakening of the cohesive fabric of Indian democracy.

These considerations motivate the authors of this article to call for a civilizational realist reassessment of India's constitutional framework. It argues that Dharma is more than just a religious concept; it is the organizing principle of civilization that supports pluralism, ethical leadership, and social harmony in India. India can unite its diverse and ancient spiritual heritage with the modern democratic state's demands for liberty and order by returning Dharma to its proper role as a guiding principle in public life.

2. Background of the Study

The political and social structure of pre-modern India, or Bharat, was characterized by a decentralized, culturally pluralistic, and spiritually grounded framework. Unlike the rigid theocratic models seen in other parts of the world, Indian society operated within a flexible dharmic order—a civilizational ethos rooted in principles of dharma (moral duty), tolerance, and pluralism. Various spiritual traditions such as Hinduism, Buddhism, Jainism, and later, early Islamic and Christian communities, coexisted in relative harmony. Historical accounts, including those of foreign travelers and even colonial observers, attest to the remarkable religious freedom, social tolerance, and intercommunal peace that prevailed across regions of pre-Islamic Bharat.

However, the nature of Indian secularism underwent a significant transformation following independence in 1947. Inspired largely by Western liberal thought, the newly formed Indian state adopted a version of secularism that aimed to separate religion entirely from the domains of politics, public education, and governance. While the intent was to ensure neutrality and protect minority rights, this interpretation often led to the artificial dissociation of religion from culture and national identity—a condition that created an ideological vacuum. In the absence of a cohesive cultural anchor, this void was increasingly occupied by imported belief systems and transnational ideological movements, particularly political Islam and Western-funded evangelical missions.

The experiences of India's neighboring countries provide cautionary parallels. For instance, the steady descent of Pakistan and Bangladesh into state-sponsored religious majoritarianism illustrates the dangers of radicalized religion gaining political legitimacy. In these cases, the marginalization of minority communities and the suppression of democratic pluralism have followed predictably. On the other hand, nations like Poland and Japan offer contrasting models—where cultural continuity, historical consciousness, and national identity have played a vital role in safeguarding democratic institutions, civil liberties, and societal cohesion.

This comparative analysis foregrounds a crucial question for Bharat: Can a democracy truly thrive in the absence of cultural memory, civilizational rootedness, and a shared sense of self-respect? As India navigates the challenges of modernity, globalization, and internal diversity, the reassertion of its civilizational identity may be not just a cultural necessity but a democratic imperative.

3. Literature Review

The conventional liberal discourse on secularism predominantly reflects a Western framework, which often marginalizes or overlooks the rich perspectives and complexities of indigenous traditions. This Western-centric model tends to universalize secularism as the strict separation of religion and state, a principle that does not seamlessly translate into diverse cultural contexts such as Bharat (India). Scholars and critics like Rajiv Malhotra (2011) and Subramanian Swamy (2007) have articulated strong critiques of this one-size-fits-all secularism, arguing that applying Western secular templates in India fails to acknowledge the country's unique civilizational and cultural fabric.

Rajiv Malhotra, in his seminal works, emphasizes the concept of “civilizational self-confidence.” He contends that India must develop an intrinsic pride and awareness of its own civilizational heritage to safeguard its cultural identity from the homogenizing effects of global liberalism. Malhotra warns that without such self-confidence, there is a risk of gradual cultural erosion, where indigenous knowledge systems, religious traditions, and social mores become marginalized or suppressed under the guise of secular modernity.

Similarly, Subramanian Swamy raises concerns about the vulnerability of Hindu identity within the Indian polity. He argues that this identity faces threats not only from external geopolitical and ideological pressures but also from internal political sabotage and neglect. Swamy suggests that the contemporary secular framework, by emphasizing a uniform neutrality that often favors a reductionist view of religion, indirectly undermines the historical and spiritual ethos of Hinduism. This, according to Swamy, leads to an identity crisis and a gradual dilution of indigenous cultural values.

The judiciary's role in interpreting and upholding secularism in India reveals significant ambivalence and inconsistency. A landmark case, *S.R. Bommai v. Union of India* (1994), famously enshrined secularism as a basic feature of the Indian Constitution, reinforcing the principle that no government can discriminate on religious grounds. However, while this judgment established secularism as a constitutional cornerstone, it offered little guidance on balancing secularism with the preservation of India's pluralistic civilizational heritage. This lack of clarity has resulted in ongoing judicial challenges in reconciling secularism with cultural preservation.

Further complicating the landscape is the judiciary's handling of cases involving parallel legal systems, such as religious personal laws and unauthorized religious courts. For example, in *Vishwa Lochan Madan v. Union of India* (2014), the Supreme Court sidestepped direct accountability regarding the operation of unauthorized Sharia courts that function parallel to India's formal legal system. This avoidance reflects a judicial reluctance to address the sensitive tension between secular governance and religious autonomy, raising questions about the consistency and efficacy of secularism in practice.

Internationally, several constitutional models offer alternative approaches to regulating religion within the state framework, often aligning religious regulation with the preservation of national identity. For instance, Article 25 of Poland's Constitution affirms religious freedom but recognizes the historical and cultural role of dominant religions, suggesting a contextualized approach to secularism. Similarly, Russia's Law on Religious Associations imposes specific regulatory frameworks on religious bodies to ensure they align with national interests and identity. These examples illustrate how countries incorporate religious considerations within constitutional secularism to preserve cultural cohesion and national integrity.

4. Legal Framework

Articles 25 to 28 of the Indian Constitution enshrine the fundamental right to freedom of religion, guaranteeing all citizens the liberty to profess, practice, and propagate their religion. However, these rights are explicitly subject to reasonable restrictions in the interests of public order, morality, and health. While these constitutional guarantees aim to protect religious freedom, the practical application of these rights has often been contested and nuanced, particularly because the judiciary and executive branches have tended to interpret these provisions in isolation—frequently without adequately considering India's long-standing civilizational continuity and the complex socio-cultural fabric that underpins religious coexistence in the country.

One landmark case that illustrates this tension is *Rev. Stainislaus V. State of Madhya Pradesh* (1977), wherein the Supreme Court upheld the constitutional validity of anti-conversion laws enacted by various states. The Court clarified that while Article 25 protects the right to propagate religion, it does not extend to the right to convert individuals through coercion, force, or allurement. This judgment underscored the state's legitimate interest in preventing exploitative conversions that could disrupt social harmony and public order. It effectively set limits on religious propagation to prevent potential abuses of religious freedom.

However, subsequent judicial pronouncements have shown a degree of inconsistency and shifting emphasis. For instance, in the Hadiya case (2018), the Supreme Court gave precedence to individual autonomy and the right to choose one's faith, even in circumstances where there were allegations of coercion. This decision highlighted the evolving jurisprudence around religious freedom, balancing protection from undue influence with respect for personal liberty. The contrasting approaches in Stainislaus and Hadiya demonstrate a complex and sometimes contradictory judicial engagement with religious rights, which poses challenges for a uniform legal framework.

Further complicating the legal landscape is the principle of secularism, which the Supreme Court affirmed as a "basic structure" of the Constitution in the *S.R. Bommai v. Union of India* (1994) judgment. While this landmark ruling firmly entrenched secularism as an essential and inviolable feature of the Indian constitutional order, it did not concretely define the nature of secularism applicable in India. Unlike the Western concept of secularism that advocates strict separation of religion and state, India's secularism is more nuanced—often described as "positive secularism," where the state maintains an equal distance from all religions and may intervene to ensure religious harmony and protect minority rights. Yet, the absence of a clear, universally accepted definition has left the application of secular principles to judicial discretion, resulting in varying interpretations.

Comparatively, other countries with multi-religious populations have adopted more prescriptive legal frameworks to safeguard national identity and regulate religious practices. For example, Russia's Federal Law No. 125-FZ explicitly prioritizes the protection of national cultural identity and imposes stringent regulations on foreign-funded religious organizations to prevent undue influence on domestic religious affairs. This approach reflects a proactive civilizational policy framework designed to balance religious freedom with national security and social cohesion.

In contrast, India currently lacks a comprehensive and centralized civilizational policy framework that explicitly harmonizes constitutional rights with corresponding responsibilities. This regulatory gap has contributed to the proliferation of parallel judicial systems, such as informal Sharia courts operating alongside the official legal system. Additionally, illegal conversions—often motivated by political agendas or religious proselytism—have become a contentious social and political issue. These developments have occasionally led to communal tensions, undermining democratic values and social unity.

Moreover, the political use of religion, including targeted appeasement of specific religious groups, has further complicated the balancing act between protecting religious freedom and maintaining public order. Such politicization risks fragmenting democratic processes and weakening the rule of law.

5. Case Studies

5.1 Pahalgam Terror Attack (2024): Civilizational Threat to Spiritual Pilgrimage

In 2024, the pilgrimage route to the Amarnath cave in Pahalgam, Jammu & Kashmir, was targeted by Islamist extremists. This assault, beyond its immediate violence, carried deeper civilizational implications. Amarnath Yatra, a centuries-old spiritual journey revered by millions of Hindus, was disrupted as part of a calculated attempt to instill fear and displace traditional spiritual practices from their sacred geography. This attack illustrated the persistent targeting of indigenous religious traditions by ideologically motivated groups aiming to transform the region's demographic and cultural landscape.

5.2 Kashmiri Pandit Exodus (1990–Present): Systemic Ethnic Cleansing and State Apathy

Beginning in 1990, and continuing in waves since, the Kashmir Valley witnessed a mass exodus of its native Hindu population—the Kashmiri Pandits. This was marked by targeted killings, threats, and widespread intimidation by radical Islamist factions, leading to the displacement of nearly the entire community. Despite constitutional guarantees such as Article 25, which protects the right to freely profess and practice one's religion, thousands of temples were desecrated, abandoned, or repurposed. This case highlights prolonged state inaction, judicial paralysis, and a failure to ensure minority protection, thus setting a dangerous precedent for religious freedom and cultural survival in conflict-prone regions.

5.3 Durga Puja Riots (2022, Bangladesh): Decline of Religious Minorities in the Subcontinent

During the 2022 Durga Puja celebrations in Bangladesh—a predominantly Muslim country—multiple Hindu temples were vandalized, and devotees subjected to violent assaults. These incidents were not isolated; they represented a pattern of increasing hostility toward the country's Hindu minority. Historical data reveals a staggering decline in the Hindu population in Bangladesh from nearly 30% in 1947 to under 8% recently. The

2022 riots underscore how radical elements, enabled by systemic indifference or political appeasement, have cultivated a hostile environment for religious minorities, further marginalizing their existence within the socio-political framework of the nation.

5.4 Kairana Exodus (2016): Religious Intimidation and Erosion of Civil Liberties

In 2016, reports emerged from Kairana, Uttar Pradesh, of mass migration of Hindu families due to sustained threats, extortion, and harassment by organized Islamist criminal gangs. The exodus reflected not only a breakdown of law and order but also a deeper erosion of democratic agency and cultural security. The silence or denial by administrative bodies exacerbated public mistrust and underscored the limitations of state mechanisms in protecting vulnerable communities from religiously motivated intimidation and demographic engineering.

5.5 Temple Attacks in Canada (2023–2024): Global Dimensions of Anti-Hindu Extremism

Between 2023 and 2024, a series of coordinated attacks on Hindu temples in Canada—particularly in cities with large South Asian diasporas—alarmed global observers. Temples were vandalized with graffiti and slogans supporting Khalistani separatism and Islamist extremism. These attacks represent the transnational expansion of radical ideologies targeting Hindu institutions even in liberal democratic societies. They reveal how global diaspora networks, often operating under the guise of political activism, can facilitate hate crimes that threaten the cultural integrity, religious freedom, and safety of diasporic communities worldwide.

6. Discussion

Religious liberty is a cornerstone of any functioning democracy, ensuring that individuals can freely profess, practice, and propagate their faith. It fosters pluralism, nurtures tolerance, and protects minority rights. However, when this freedom is manipulated—when religious identity is weaponized as a political instrument driven by radical ideologies or bolstered by foreign funding—it ceases to be a unifying right and instead becomes a source of fragmentation within society.

In the Indian context, the unique civilizational ethos of Bharat has historically embraced spiritual diversity through a framework of mutual respect and coexistence. Yet, the post-independence interpretation of religious freedom has, in some instances, veered toward excessive permissiveness. This has enabled the rise of parallel legal and social structures—particularly in sensitive border regions—where national integration is weakened by communal isolation and ideological indoctrination. Foreign-funded institutions, often operating under the guise of education or humanitarian aid, have played a notable role in such developments, facilitating conversions and promoting narratives that are misaligned with Bharat's cultural roots.

The original vision of secularism by India's founding leaders was never intended to be hostile to religion or cultural tradition. Rather, it was meant to guarantee equal respect for all religions while preserving the spiritual and moral foundations that have historically underpinned Indian society. Over time, however, secularism has often been misconstrued as a rigid detachment from India's civilizational identity—a stance that has led to a disconnect between governance and the values cherished by the majority of its people.

To restore balance, there is a pressing need to reinterpret secularism not merely as religious neutrality but as a commitment to safeguarding the civilizational integrity of the nation. This entails resisting efforts that seek to divide communities for political or ideological gain, while also ensuring that religious freedom does not come at the cost of national unity.

Democracy, as a system of governance, cannot thrive in an ideological vacuum. It requires cultural cohesion and shared symbols that bind citizens together. Bharat's civilizational principle of Dharma—a concept encompassing duty, justice, harmony, and truth—offers such a unifying framework. Unlike dogmatic systems, Dharma is inherently inclusive and adaptive, capable of harmonizing diverse beliefs within a common moral structure. Embracing Dharma as a guiding ethos in public life can therefore serve as a powerful foundation for a resilient and inclusive democracy that respects diversity while maintaining national cohesion.

7. Conclusion

The foundational promise of religious freedom in Bharat must be understood not in isolation, but as an essential component of a broader civilizational and constitutional framework. This freedom, while sacrosanct, is inherently intertwined with the duties of citizenship and the imperative of preserving a unique cultural and spiritual heritage. Bharat's democratic ethos is not a mere replication of Western liberal models; rather, it emerges organically from millennia of dharmic governance, characterized by pluralism, tolerance, and moral discipline.

To safeguard the integrity of its democracy, Bharat must critically reassess its interpretation and application of secularism and religious liberty. These concepts, though often shaped by Western discourse, must be recontextualized within the philosophical and ethical boundaries of Sanatan Dharma—a tradition that has historically upheld diversity without abandoning order, and embraced spiritual freedom without forsaking collective responsibility.

The failure to root secularism in indigenous civilizational values risks more than mere ideological confusion. It endangers the very fabric of Bharat's national identity, potentially leading to cultural disorientation, demographic destabilization, and the gradual erosion of democratic institutions. Thus, a conscious return to a dharma-based understanding of religious freedom—where liberty is balanced by duty, and plurality is safeguarded by cohesion—is not merely desirable but essential for Bharat's sustainable democratic future.

8. Recommendations

8.1 Constitutional Definition of Positive Secularism Rooted in India's Dharmic Traditions

It is recommended that the Indian Constitution incorporate a clear and contextually appropriate definition of positive secularism, one that reflects the civilizational ethos and pluralistic spiritual foundations of the Indian subcontinent. Unlike the Western model of secularism which often implies a strict separation between religion and state, India's approach has historically embraced a non-theocratic, yet spiritually inclusive worldview. Recognizing and codifying this unique model—grounded in dharma—will ensure that secularism does not translate into the marginalization of indigenous traditions, but rather supports harmonious coexistence of all faiths within the framework of India's civilizational values.

8.2 Prohibition of Foreign Religious Funding with Political or Demographic Influence

A legislative and regulatory framework should be established to prohibit or rigorously scrutinize foreign funding to religious institutions and organizations, particularly where such funding aims to alter India's demographic balance or influence political discourse. Foreign contributions that directly or indirectly promote proselytization, communal polarization, or undermine national integration should be banned or heavily monitored under strengthened provisions of the Foreign Contribution (Regulation) Act (FCRA). This move is essential to preserve national sovereignty, internal security, and cultural integrity.

8.3 Nationwide Reinforcement and Standardization of Anti-Conversion Laws

It is recommended that the Government of India standardize anti-conversion legislation across all states through a unified national law. This legislation should criminalize conversions achieved through coercion, fraud, inducement, or allurements, while safeguarding voluntary, informed religious choices. Uniformity in the law would eliminate loopholes exploited through state-level disparities and serve as a deterrent against aggressive and unethical conversion practices, especially in vulnerable tribal and rural areas.

8.4 Creation of a Civilizational Integrity Commission with Judicial Oversight

A statutory body titled the Civilizational Integrity Commission (CIC) should be established to monitor and protect India's cultural and civilizational heritage. This commission should function with judicial oversight and have the authority to review policies, educational content, legal judgments, and administrative actions that affect civilizational continuity. It must also advise the government on issues concerning cultural preservation, religious freedoms, and communal harmony from a long-term national perspective.

8.5 Mandating the Integration of Indian Philosophical Systems in Educational Curricula

It is recommended that Indian philosophical and knowledge traditions—including Vedanta, Samkhya, Nyaya, Yoga, Buddhism, and Jainism—be integrated into school and university-level curricula. A secular and scholarly approach to these systems should be adopted, highlighting their intellectual richness, ethical frameworks, and contributions to science, logic, and metaphysics. Such educational reforms will foster civilizational literacy, strengthen national identity, and cultivate respect for diverse indigenous traditions among students.

8.6 Legal Protection of Hindu Religious Sites and Festivals from Targeted Disruption

A robust legal mechanism must be enacted to provide explicit protections for Hindu temples, sacred sites, and religious festivals against deliberate disruption, desecration, or administrative negligence. This includes

implementing strict penalties for acts of violence or defamation targeting Hindu symbols and practices. Furthermore, the management of Hindu temples should be progressively de-politicized and restored to community-led or autonomous religious trusts to ensure authentic religious and cultural stewardship.

8.7 Judicial Encouragement to Adopt a Civilizational Lens in Interpreting Religious Freedoms

It is recommended that the Indian judiciary, while interpreting provisions related to religious freedoms under Articles 25-30 of the Constitution, adopt a civilizational perspective. This lens should recognize the distinctiveness of Indian religious and cultural practices, as opposed to universalist interpretations modeled on Abrahamic frameworks. A civilizational approach will enable a more nuanced and culturally resonant application of constitutional principles, ensuring justice is aligned with India's pluralistic yet rooted heritage.

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