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Q15

Discuss India as a secular state and compare with the secular principles of the US constitution.

UPSC Civil Services Mains 2024 · GS II · 15 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- State India as a secular state in constitutional text and practice
- State the secular principles of the United States Constitution
- Compare principled distance with a wall of separation
- Use S.R. Bommai and a US establishment case as anchors

Revision summary

- **Indian secularism:** Preamble, Articles 25-28, Bommai as basic structure, personal laws, State reform of Hindu law and regulation of temples.
- **US secularism:** First Amendment establishment and free exercise, Everson's wall, Engel on school prayer, no millet personal law.

India practises principled distance and social reform; the United States practises non-establishment.

Minority educational rights under Article 30 have no US analogue of that form.

Neither wall nor distance is a finished peace with majoritarian politics.

Comparison is of method, not of piety.

Introduction

Both India and the United States refuse a theocratic State. They do not refuse it in the same grammar. India is a secular republic that regulates and reforms religion while funding aspects of it. The United States is a disestablished republic that spends more energy on a wall between church and Congress. Comparison is about those methods, not about which people are more devout.

Body**India as a secular state**

Indian secularism is equal respect plus the power to reform.

- **Peg:** The **Preamble**, after the 42nd Amendment, describes India as secular; in **S.R. Bommai v. Union of India** the Court treated secularism as a **basic feature** even apart from that word.
- **Peg:** **Articles 25 to 28** guarantee profession, practice and propagation, subject to public order, morality and health, and let the State throw open Hindu public institutions and regulate the economic side of religion.

- **Peg:** **Articles 15, 16 and 17** outlaw caste in the public sphere; family law is still largely **personal law** unless a Uniform Civil Code is made under **Article 44**.
- **Peg:** Parliament reformed Hindu law in 1955-56; States run many temple boards; **Article 30** protects minority educational institutions - **principled distance**, not absence.

United States principles

The First Amendment is two clauses, not a social-reform kit.

- **Peg:** Congress shall make no law **respecting an establishment of religion**, and it shall not prohibit the **free exercise** of religion.
- **Peg:** **Everson v. Board of Education** used Jefferson's **wall of separation** and applied the establishment clause to the States.
- **Peg:** **Engel v. Vitale** held that a school-sponsored prayer, even a nondenominational one, breached that wall.
- **Peg:** There is no millet-style personal-law system by church; a federal statute recoding a majority religion's family law, on the pattern of the Hindu Code, would be unthinkable.

Compare

Neither model is a copy; both struggle with majority sentiment.

- **Peg:** Indian secularism is often called **positive**: minority rights, the State as social reformer of majority personal law, religious equality as a project.
- **Peg:** US secularism is **negative** in the older sense: no established church, free exercise, no Uniform Civil Code to unify communities.
- **Peg:** India's live tension is reform versus equal respect; America's is public religion versus the wall.
- **Peg:** Transplanting Jefferson's wall would freeze **Article 17** and Hindu-code reform; transplanting Indian temple control to the US would explode the establishment clause.

Flow diagram

India -> Principled distance
 Principled distance -> Reform personal law temple
 USA -> Wall of separation
 Wall of separation -> No establishment
 Wall of separation -> Free exercise
 Principled distance -> Equal respect

Conclusion

India's secularism is equal respect plus the power to reform. The US model is disestablishment plus free exercise. Both check theocracy; only India writes the State in as a social reformer of religion.

Facts & figures

S.R. Bommai v. Union of India

Secularism is part of the basic structure; a State government can fall for using religion as a political weapon.

Everson v. Board of Education

US Supreme Court applied the establishment clause to the States and used Jefferson's wall language.

42nd Constitutional Amendment, 1976

Inserted 'secular' into the Preamble; the Court has said the quality was already in the 1950 text.

Engel v. Vitale

School-sponsored prayer, even nondenominational, breached the establishment clause.

Articles 25 to 28 of the Constitution

Freedom of religion with public-order limits, plus State power to regulate economic and social aspects and to throw open Hindu public institutions.

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