



Freedom of Religion

For Prelims: [Freedom of Religion](#), [Article 25-28](#), [Fundamental Rights](#), [NIA](#), [CBI](#), [Forceful Conversion](#).

For Mains: Freedom of Religion and Related Constitutional Provisions.

Why in News?

Recently, the Tamil Nadu (TN) Government has stated that the [Article 25 \(Freedom of Religion\)](#) of the Indian Constitution guarantees every citizen the right to propagate his religion, while replying to a petition in the **Supreme Court (SC)**.

- The petitioner complained about the **instances of forceful conversion in TN**, violating the [Fundamental Rights](#).

What is the Case About?

- The petitioner sought an **NIA (National Investigation Agency)/CBI (Central Bureau of Investigation)** investigation into the “root cause” of the death of a 17-year-old girl in Tamil Nadu amidst a **swirl of accusations that she had been forced to convert to Christianity**. The petition argued that [forcible or deceitful conversion](#) was a violation of fundamental rights.
- TN govt has replied that the acts of **missionaries to spread Christianity by themselves cannot be seen as illegal**, since the Constitution guarantees every citizen the right to propagate his religion under Article 25.
 - However, if their act of spreading their religion is against public order, morality and health and against other provisions of [Part III of the Constitution](#), it has to **be viewed seriously**.

What is Understood by the Freedom of Religion?

- **About:**
 - Every citizen is entitled with this right and liberty **to preach, practice and propagate the religion** of his choice.
 - An opportunity is also provided by this right to spread it among everyone without any fear of government intervention.
 - But also, it is expected by the state to practice it amicably within the jurisdiction of the country.
- **Need:**
 - India is home to people following different religions and having different faiths. As per the Pew Research Centre 2021 data, **there are 4,641,403 people who follow other religions apart from the six major religions** which are Hinduism, Jainism, Islam, Buddhism, Sikhism, and Christianity.
 - So with such a diverse population, following different religions and beliefs, it becomes necessary to **protect and secure rights regarding the faith** of each and every religion.
- **Secularism:**
 - The [42nd Constitutional amendment](#) in 1976 added the word ‘**secular**’ to the [preamble of](#)

[the Constitution](#). India being a secular state, is a no state religion which means **that it follows no particular religion**.

- In Ahmedabad **St. Xavier's College v. State of Gujarat (1975)**, the SC held that Secularism neither means anti-god nor pro-god. It just ensures that no one is differentiated on the basis of religion eliminating the concept of God in matters of the state.

▪ **Constitutional Provisions Related to Freedom of Religion:**

- **Article 25:** It imparts freedom of conscience and free profession, practice and propagation of religion.
- **Article 26:** It gives freedom to manage religious affairs.
- **Article 27:** It sets freedom as to **payment of taxes for promotion** of any particular religion.
- **Article 28:** It gives freedom as to attendance at religious instruction or religious **worship in certain educational institutions**.

Secularism in India v/s US:

- **India follows the concept of 'neutrality' and 'positive role' towards religion.** The State can introduce **religious reforms, protect minorities** and formulate policies on religious matters.
- **The US follows the principle of 'non-interference' in the matters** of religion. The State **cannot take any action** in religious matters.

What are the Major Judicial Pronouncements on Freedom of Religion

- **Bijoe Emmanuel and Ors. v. State of Kerala (1986):**
 - In this case, three children of Jehovah's Witnesses sect were suspended from the school as they refused to sing the national anthem claiming that it is against the tenets of their faith. The court held that expulsion is violative of fundamental rights and the right to freedom of religion.
- **Acharya Jagdishwaranand v. Commissioner of Police, Calcutta (1983):**
 - The Court held that Ananda Marga is not a separate religion but a religious denomination. And the performance of **Tandava on public streets is not an essential practice** of Ananda Marga.
- **M. Ismail Faruqui v. Union of India (1994):**
 - The apex court held that the mosque is not an essential practice of Islam, and a Muslim can offer namaz (prayer) anywhere even in the open.
- **Raja Birakishore v. State of Orissa (1964.):**
 - The validity of the Jagannath Temple Act, 1954 was challenged as it enacted provisions to manage the affairs of Puri temple on the grounds that it is violating Article 26. The court held that the Act only regulated the secular aspect of seva puja, **therefore, it is not violative of Article 26**.

Note:

- States like **Karnataka, Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Odisha, Uttar Pradesh and Uttarakhand** have passed laws restricting **religious conversion**.
- In March 2022, Haryana State Assembly passed the [Haryana Prevention of Unlawful Conversion of Religion Bill, 2022](#), against **religious conversion by allurement, coercion or fraudulent means**.
- In August 2022, the Himachal Pradesh government also passed the [Himachal Pradesh Freedom of Religion \(Amendment\) bill 2022](#), seeking to criminalise mass religious conversions.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains:

Q. How the Indian concept of secularism is different from the western model of secularism? Discuss. (2016)

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