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FREEDOM OF RELIGION AND THE SECULAR STATE: A COMPARATIVE CONSTITUTIONAL STUDY OF THE UNITED STATES, GERMANY AND INDIA

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I. ABSTRACT

Freedom of religion and the secular state are linked yet distinct constitutional commitments, and democracies realise them in very different ways. This paper offers a comparative doctrinal study of the United States, Germany and India, three federal constitutional democracies with contrasting histories of church–state relations. The United States relies on the Establishment and Free Exercise Clauses of the First Amendment, read since Everson as a separation model that has recently moved towards historical tradition and accommodation in Kennedy v. Bremerton School District (2022) and Mahmoud v. Taylor (2025). Germany, through Article 4 and Article 140 of the Basic Law read with the Weimar Church Articles, combines the absence of a state church with institutional cooperation and a duty of "open" neutrality, developed in the Crucifix (1995) and Headscarf (2003, 2015) decisions and recalibrated for church employers in Egenberger (2025). India, through the Preamble as amended by the Forty-second Amendment and Articles 25 to 28, adopts principled distance, under which the state may regulate and reform religion. Its Supreme Court declared secularism a basic feature in S.R. Bommai (1994) and reaffirmed it in Dr. Balram Singh (2024), and a nine-judge bench reserved judgment on the essential religious practices' doctrine in the Sabarimala reference on 14 May 2026. Using doctrinal and comparative methods, the paper examines constitutional text, landmark judgments, statutes and recent developments, including the 2025 Waqf amendment litigation and changing demographic data in all three countries. It argues that each system balances conscience, group autonomy, equality and public order through a different institutional logic. Convergence is limited: German courts apply structured

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proportionality, while American and Indian courts use means-end and balancing techniques that share only part of its structure. The paper closes with suggestions on judicial restraint in defining religious essentials, statutory clarity in religious regulation, and equal inclusion of minority faiths in cooperative arrangements.

II. KEYWORDS

Freedom of Religion; Secularism; Comparative Constitutional Law; Essential Religious Practices; State Neutrality.

III. INTRODUCTION AND RESEARCH PROBLEM

Freedom of religion occupies an unusual place among constitutional rights. It protects an inner liberty of conscience that the state cannot lawfully touch, and it also protects outward conduct such as worship, dress, education and the management of religious institutions, which inevitably collides with other legal interests. The secular state is the institutional counterpart of that freedom: it denies any faith the status of official creed and promises equal treatment to believers and non-believers alike.[1] Yet the phrase "secular state" conceals very different arrangements. A state may *separate itself from religion, remain neutral between religions while cooperating with them, or keep a principled distance that permits intervention for reform*.

The United States, Germany and India represent these three arrangements. The First Amendment forbids laws "respecting an establishment of religion" and protects free exercise, producing a jurisprudence of separation that has recently turned towards accommodation.[2] The German Basic Law protects freedom of faith and conscience in Article 4 and, through Article 140, preserves the Weimar Church Articles, which abolish any state church yet allow religious societies public-law status and a state-collected tax.[3]

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[1] The International Covenant on Civil and Political Rights, 1966 (ICCPR), art. 18, 999 U.N.T.S. 171; The Universal Declaration of Human Rights, 1948, art. 18, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).
[2] The Constitution of the United States, amend. I; art. VI, cl. 3.
[3] Grundgesetz für die Bundesrepublik Deutschland, 1949 [GG] (Basic Law), arts. 4, 140; Verfassung des Deutschen Reichs, 1919 [WRV] (Weimar Constitution), arts. 136–139, 141.

The Indian Constitution proclaims a "secular" republic in its Preamble and guarantees religious freedom in Articles 25 to 28, yet it also empowers the state to regulate secular activity associated with religion and to open Hindu institutions to all classes.[4]

Recent developments make a fresh comparison necessary. In 2022 the United States Supreme Court discarded the *Lemon* test, and in 2025 it extended free-exercise protection to parental opt-outs from school curricula.[5] India's Supreme Court dismissed a challenge to the words "secular" and "socialist" in the Preamble in November 2024, partly stayed the Waqf (Amendment) Act, 2025 in September 2025, and reserved judgment in May 2026 in a nine-judge reference that may recast the essential religious practices doctrine.[6] In Germany, litigation on headscarves and church labour law has shaped the idea of "open" neutrality, while the two large churches now claim fewer than half of the population.[7]

A. Research Problem

Each of the three constitutions protects religious freedom and commits the state to some form of secularism, and the courts of each now face similar conflicts: religious dress in public institutions, parental objections to school curricula, the autonomy of religious employers and the regulation of religious endowments. The existing scholarship explains each system largely on its own terms.

It leaves open whether the three courts are moving towards a common method of resolving these conflicts, in particular proportionality, or whether their textual designs and histories keep them apart. The research problem is that this question has not been examined in the light of the developments of 2022 to 2026, while reform proposals for

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[4] The Constitution of India, Preamble, arts. 25–28.
[5] *Kennedy v. Bremerton School District*, (2022) 597 U.S. 507; *Mahmoud v. Taylor*, (2025) 606 U.S. 522.
[6] *Dr. Balram Singh v. Union of India*, 2024 INSC 893 : 2024 SCC OnLine SC 3433 (W.P.(C) No. 645 of 2020, 25 Nov. 2024); *In re: The Waqf (Amendment) Act, 2025*, 2025 INSC 1116 (interim order, 15 Sept. 2025); Supreme Court Observer, "Sabarimala Reference | Day 16" (14 May 2026), *available at*: https://www.scobserver.in/reports/sabarimala-reference-day-16/ (last visited 8 Nov. 2026).
[7] Forschungsgruppe Weltanschauungen in Deutschland (fowid), "Religionszugehörigkeiten 2024" (2 Apr. 2025), *available at*: https://fowid.de/meldung/religionszugehoerigkeiten-2024 (last visited 8 Nov. 2026).

India, including the replacement of the essential religious practices test, are advanced without a tested comparative basis.

This paper asks how the three systems define the limits of religious freedom and the meaning of secularism, and what each can learn from the others. Part II reviews the literature. Parts III, IV and V set out the research objectives, the research questions and the methodology. Part VI contains the research and analysis in five chapters: conceptual and historical foundations; the United States; Germany; India; and a comparative analysis that examines proportionality. Part VII offers suggestions and recommendations, and Part VIII states the conclusions.

B. Literature Review

The literature reviewed here consists of foundational books and journal articles on the three jurisdictions, together with scholarship published after 2020 on the recent American and German developments. Together they cover the principal doctrinal debates.

Gary Jacobsohn's *The Wheel of Law* compares India, the United States and Israel and argues that secularism cannot be understood apart from a nation's constitutional identity. It treats Indian secularism as a model in which the state may act to reform religion, instead of merely withdrawing from it.[8] Christopher Eisgruber and Lawrence Sager propose the principle of "equal regard" for American law: religion should be neither singled out for special benefit nor disadvantaged, and should be treated with the same regard as other deep commitments.[9] The two books supply the theoretical frame for the comparison: contextual constitutional identity on one hand and equality-based neutrality on the other.

[8] Gary J. Jacobsohn, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (Princeton University Press, Princeton, 2003).
[9] Christopher L. Eisgruber and Lawrence G. Sager, *Religious Freedom and the Constitution* (Harvard University Press, Cambridge, Mass., 2007).

Among the articles, Karl-Heinz Ladeur and Ino Augsberg question the German reliance on neutrality, arguing that in the face of religious pluralism the principle can degenerate into indifference and weaken the law's capacity to resolve conflicts.[10] Greg Taylor analyses the 2015 *Headscarf II* order and criticises the absence in the Basic Law of a right to education that could balance teachers' religious claims against the interests of pupils.[11] Susanna Mancini uses the crucifix controversy to show the tension between supranational rights adjudication and majoritarian religious identity.[12] On India, Rehan Abeyratne examines the limits of constitutional secularism through cases of competing minority claims, including the triple talaq case.[13] Ratna Kapur studies how gender equality and secularism interact in landmark Supreme Court decisions on discriminatory religious practices, against the background of Hindu nationalism.[14]

The Indian strand rests on a wider foundation. Rajeev Bhargava's account of "principled distance" explains how the Indian state may keep different degrees of distance from different religions, and intervene in some of them, without abandoning neutrality.[15] Ronojoy Sen shows how the Supreme Court used the essential practices doctrine to promote a rationalised and reformist view of religion.[16] Faizan Mustafa and Jagteshwar Singh Sohi argue that the same doctrine has led the Court to act as clergy in deciding questions of faith.[17]

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[10] Karl-Heinz Ladeur and Ino Augsberg, "The Myth of the Neutral State: The Relationship between State and Religion in the Face of New Challenges" 8(2) *German Law Journal* 143 (2007).
[11] Greg Taylor, "Teachers' Religious Headscarves in German Constitutional Law" 6(1) *Oxford Journal of Law and Religion* 93 (2017).
[12] Susanna Mancini, "The Crucifix Rage: Supranational Constitutionalism Bumps Against the Counter-Majoritarian Difficulty" 6(1) *European Constitutional Law Review* 6 (2010).
[13] Rehan Abeyratne, "Privileging the Powerful: Religion and Constitutional Law in India" 13(2) *Asian Journal of Comparative Law* 307 (2018).
[14] Ratna Kapur, "Gender and the 'Faith' in Law: Equality, Secularism, and the Rise of the Hindu Nation" 35(3) *Journal of Law and Religion* 407 (2020).
[15] Rajeev Bhargava, "What is Secularism For?" in Rajeev Bhargava (ed.), *Secularism and Its Critics* 486 (Oxford University Press, Delhi, 1998).
[16] Ronojoy Sen, *Articles of Faith: Religion, Secularism, and the Indian Supreme Court* (Oxford University Press, New Delhi, 2010).
[17] Faizan Mustafa and Jagteshwar Singh Sohi, "Freedom of Religion in India: Current Issues and Supreme Court Acting as Clergy" 2017(4) *Brigham Young University Law Review* 915 (2017).

Recent scholarship addresses the American and German developments separately. Stephanie Barclay reads *Kennedy* as treating the two Religion Clauses as complementary rather than in tension,[18] while Frank Ravitch argues that its history-and-tradition approach is unprincipled and subordinates the Establishment Clause to free exercise.[19] On Germany, Aurelia Colombi Ciacchi explains how the 2018 *Egenberger* ruling of the Court of Justice of the European Union required effective judicial review of church employers' occupational requirements,[20] and Hans Michael Heinig and Frank Schorkopf read the Federal Constitutional Court's 2025 order as protecting both church self-determination and the force of EU law.[21]

Three gaps emerge. First, the comparative works do not examine these three systems together: Jacobsohn compares India with the United States and Israel, not Germany, and the articles on Germany and India each treat a single jurisdiction.[22] Second, the scholarship on India predates *Balram Singh*, the Waqf litigation and the 2026 Sabarimala hearings, while the post-2020 work on *Kennedy* and *Egenberger* stays within its own legal order.[23] Third, none of these studies tests against the practice of the three courts the claim, now pressed before the Indian Supreme Court, that proportionality could replace the essential practices test.[24] This paper addresses those gaps.

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[18] Stephanie H. Barclay, "The Religion Clauses After *Kennedy v. Bremerton School District*" 108 *Iowa Law Review* 2097 (2023).
[19] Frank S. Ravitch, "Unprincipled" 61 *Houston Law Review* 517 (2024).
[20] Aurelia Colombi Ciacchi, "The Direct Horizontal Effect of EU Fundamental Rights: ECJ 17 April 2018, Case C-414/16, *Vera Egenberger v. Evangelisches Werk für Diakonie und Entwicklung e.V.* and ECJ 11 September 2018, Case C-68/17, *IR v. JQ*" 15(2) *European Constitutional Law Review* 294 (2019).
[21] Hans Michael Heinig and Frank Schorkopf, "Religiously Sensitive Union Law in Fundamental-Rights Pluralism: *Egenberger* Strengthens Both: Corporate Religious Self-determination and EU Law", *Verfassungsblog* (12 Jan. 2026), *available at*: https://verfassungsblog.de/religiously-sensitive-union-law-fr-pluralism/ (last visited 8 Nov. 2026).
[22] Jacobsohn, *supra* note 9; Ladeur and Augsberg, *supra* note 11; Abeyratne, *supra* note 14.
[23] Sen, *supra* note 17; Mustafa and Sohi, *supra* note 18; Barclay, *supra* note 19; Heinig and Schorkopf, *supra* note 22.
[24] Supreme Court Observer, "Sabarimala Reference | Day 15: Essential Religious Practices Test Faces Challenges from Both Sides" (13 May 2026), *available at*: https://www.scobserver.in/reports/sabarimala-reference-day-15/ (last visited 8 Nov. 2026).

C. Research Objectives

The study pursues the following objectives:

1. To identify the constitutional provisions governing religion in the United States, Germany and India;
2. To analyse the landmark judgments and principal statutes that give those provisions content;
3. To compare the models of secularism and the limits imposed on religious freedom;
4. To evaluate developments between 2022 and 2026; and (5) to suggest lessons for doctrinal and legislative reform.

D. Research Questions

The study addresses the following research questions:

1. How does each constitution structure the relationship between religion and the state?
2. Which tests do the highest courts use when religious claims conflict with other interests?
3. Are the systems converging or diverging, and does any convergence amount to proportionality?

The working hypothesis is that, although the textual designs differ, the three highest courts increasingly resolve religious conflicts through balancing techniques with a means-end structure. Part VI tests whether those techniques amount to proportionality in the strict sense.

E. Research Methodology

The study is doctrinal and comparative. The doctrinal method analyses primary legal materials: constitutional provisions, statutes, and the judgments of the Supreme Court of

the United States, the Federal Constitutional Court of Germany (Bundesverfassungsgericht) and the Supreme Court of India. The comparative method is functional: the three systems are compared by the problems they solve (the scope of religious liberty, the status of religious groups, religion in public education, and the judicial role) and not by labels such as "secularism".[25]

Secondary sources include books, articles in peer-reviewed journals, and reports by reputed legal publishers. Official texts were used for the Constitutions and statutes. German decisions are cited from the official collection (BVerfGE) and from English translations or summaries where available, which is a limitation, since nuance can be lost in translation. Recent matters, particularly the Sabarimala reference and the Waqf litigation, are pending or at an interim stage, and the conclusions on them are provisional; their status was last checked on 8 November 2026. Citations follow the Indian Law Institute (ILI) style throughout, and foreign decisions are cited in the same form, with the year in parentheses followed by the official reporter.

IV. RESEARCH AND ANALYSIS

A. Chapter I: Conceptual and Historical Foundations

Two concepts must be separated. *Freedom of religion* has an inner dimension (*forum internum*), covering belief and conscience, which international law treats as absolute, and an outer dimension (*forum externum*), covering manifestation in worship, observance, practice and teaching, which may be limited by law for reasons such as public safety, order, health, morals and the rights of others.[26] *Secularism* is a property of the state: it denies an official religion and commits the state to equal treatment of faiths. Models differ along two axes, namely how far the state separates itself from religious institutions and how far it may regulate religious life.

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[25] On the functional method, see Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law* (Tony Weir tr., Oxford University Press, Oxford, 3rd edn., 1998).
[26] ICCPR, *supra* note 2, art. 18(1), (3).

The American model grew out of colonial establishments and the revolt against them. Virginia's Statute for Establishing Religious Freedom (1786) preceded the First Amendment (1791), and Thomas Jefferson's image of a "wall of separation" was later adopted by the Supreme Court.[27] The German model grew out of confessional division after the Reformation. The Weimar Constitution of 1919 ended the state church but kept the churches as public-law corporations, a settlement that Ulrich Stutz called a "limping separation" (*hinkende Trennung*) and that the Basic Law of 1949 carried forward through Article 140.[28]

India's model emerged from the Constituent Assembly's attempt to reconcile deep religious diversity with the trauma of Partition. The word "secular" was absent from the original Preamble and was inserted by the Constitution (Forty-second Amendment) Act, 1976, w.e.f. 3 January 1977, although the Supreme Court had earlier treated secularism as part of the basic structure.[29] The demographic setting also differs. In India, Census 2011 recorded Hindus at about 79.8 per cent and Muslims at 14.2 per cent of the population.[30]

In Germany, the Forschungsgruppe Weltanschauungen in Deutschland (fowid) estimated that at the end of 2024 about 47 per cent of residents had no religious affiliation, against roughly 24 per cent Catholics, 21 per cent Protestants and 3.9 per cent Muslims.[31] Estimates of the Muslim share differ by method: a 2020 study of the Federal Office for Migration and Refugees, which counted all persons of Muslim faith with a migration background from Muslim-majority countries, put the figure at 5.3 to 5.6 million, or 6.4 to

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[27] *Reynolds v. United States*, (1879) 98 U.S. 145; *Everson v. Board of Education*, (1947) 330 U.S. 1.
[28] Ulrich Stutz, *Die päpstliche Diplomatie unter Leo XIII. nach den Denkwürdigkeiten des Kardinals Domenico Ferrata* 54, n. 2 (Akademie der Wissenschaften, Berlin, 1926); Werner Weber, "Die Gegenwartslage des Staatskirchenrechts" 11 *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer* 153 (1954) (attributing the formula to Stutz).
[29] The Constitution (Forty-second Amendment) Act, 1976, s. 2; *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.
[30] Office of the Registrar General and Census Commissioner, India, *Census of India 2011: Population by Religious Community*, *available at*: https://censusindia.gov.in (last visited 8 Nov. 2026).
[31] fowid, *supra* note 8 (explaining that the Muslim figure excludes Alevis and treats a share of nominal Muslims as unaffiliated).

6.7 per cent.[32] In the United States, Pew's 2023–24 Religious Landscape Study found about 62 per cent Christian and 29 per cent unaffiliated.[33]

B. Chapter II: The United States: Separation, Exemption and History

1. **Constitutional text:** The First Amendment has two religion clauses: Congress shall make no law respecting an establishment of religion, and shall not prohibit the free exercise. Article VI, clause 3 bars religious tests for public office. The Fourteenth Amendment makes both clauses binding on the states, as held in *Cantwell v. Connecticut* for free exercise and *Everson v. Board of Education* for the Establishment Clause.[34]

2. **Free exercise:** *Reynolds v. United States* separated belief, which is absolutely protected, from conduct, which the state may regulate. *Sherbert v. Verner* required a compelling interest before burdening religious exercise, and *Wisconsin v. Yoder* exempted Amish families from compulsory schooling beyond the eighth grade.[35] *Employment Division v. Smith* (1990) then held that neutral and generally applicable laws need no religious exemption, and *Church of Lukumi Babalu Aye v. Hialeah* held that a law targeting a religious practice faces strict scrutiny.[36] Congress answered *Smith* with the Religious Freedom Restoration Act, 1993 (RFRA), which bars the federal government from substantially burdening religion unless it uses the least restrictive means to

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[32] Katrin Pfündel, Anja Stichs and Kerstin Tanis, *Muslimisches Leben in Deutschland 2020* (Research Report 38, Federal Office for Migration and Refugees, Nuremberg, 2021), *available at*: https://www.bamf.de/SharedDocs/Anlagen/DE/Forschung/Forschungsberichte/fb38-muslimisches-leben.html (last visited 8 Nov. 2026).

[33] Pew Research Center, *Decline of Christianity in the U.S. Has Slowed, May Have Leveled Off: Findings from the 2023–24 Religious Landscape Study* (26 Feb. 2025), *available at*: https://www.pewresearch.org/religion/2025/02/26/decline-of-christianity-in-the-us-has-slowed-may-have-leveled-off/ (last visited 8 Nov. 2026).

[34] *Cantwell v. Connecticut*, (1940) 310 U.S. 296; *Everson*, *supra* note 28, at 15–16.

[35] *Sherbert v. Verner*, (1963) 374 U.S. 398; *Wisconsin v. Yoder*, (1972) 406 U.S. 205.

[36] *Employment Division v. Smith*, (1990) 494 U.S. 872; *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, (1993) 508 U.S. 520.

serve a compelling interest. The Court held RFRA inapplicable to the states in *City of Boerne v. Flores*, and Congress then enacted the Religious Land Use and Institutionalized Persons Act, 2000 (RLUIPA).[37] *Burwell v. Hobby Lobby* applied RFRA to exempt closely held corporations from the contraceptive mandate, and *Fulton v. City of Philadelphia* (2021) ruled for a Catholic foster agency while declining to overrule *Smith*.[38]

3. **Establishment:** *Engel v. Vitale* and *Abington School District v. Schempp* struck down official school prayer and Bible reading.[39] *Lemon v. Kurtzman* (1971) supplied a three-part test on purpose, effect and entanglement. *Kennedy v. Bremerton School District* (2022) then held that a coach's brief, personal post-game prayer was protected by the Free Exercise and Free Speech Clauses, and that *Lemon* and the endorsement test had been abandoned in favour of "historical practices and understandings", an approach already visible in *Town of Greece v. Galloway* and *American Legion v. American Humanist Association*.[40] On funding, *Zelman v. Simmons-Harris* upheld neutral school vouchers, and *Trinity Lutheran*, *Espinoza* and *Carson v. Makin* held that states cannot exclude religious institutions from otherwise available public benefits solely because they are religious.[41]

4. **Church autonomy and recent developments:** The ministerial exception, recognised in *Hosanna-Tabor* and *Our Lady of Guadalupe*, shields religious

[37] The Religious Freedom Restoration Act, 1993, 42 U.S.C. §§ 2000bb–2000bb-4; *City of Boerne v. Flores*, (1997) 521 U.S. 507; The Religious Land Use and Institutionalized Persons Act, 2000, 42 U.S.C. §§ 2000cc–2000cc-5.
[38] *Burwell v. Hobby Lobby Stores, Inc.*, (2014) 573 U.S. 682; *Fulton v. City of Philadelphia*, (2021) 593 U.S. 522.
[39] *Engel v. Vitale*, (1962) 370 U.S. 421; *Abington School District v. Schempp*, (1963) 374 U.S. 203.
[40] *Lemon v. Kurtzman*, (1971) 403 U.S. 602; *Kennedy*, *supra* note 6, at 535–536; *Town of Greece v. Galloway*, (2014) 572 U.S. 565; *American Legion v. American Humanist Association*, (2019) 588 U.S. 29.
[41] *Zelman v. Simmons-Harris*, (2002) 536 U.S. 639; *Trinity Lutheran Church of Columbia, Inc. v. Comer*, (2017) 582 U.S. 449; *Espinoza v. Montana Department of Revenue*, (2020) 591 U.S. 464; *Carson v. Makin*, (2022) 596 U.S. 767.

employers' choice of ministers from employment discrimination law.[42] In *Mahmoud v. Taylor* (27 June 2025) the Court held, 6–3, that parents were likely to succeed in a free-exercise claim to opt their children out of LGBTQ-inclusive storybooks, relying on *Yoder* and applying strict scrutiny to the no-opt-out policy.[43] In 2025 the Court also divided 4–4 on whether a state could charter a religious public school, leaving the state supreme court's ruling against it in place without a national precedent.[44] State laws mandating display of the Ten Commandments in public classrooms are under challenge, and their outcome will test the new historical approach.

C. Chapter III: Germany: Open Neutrality and Cooperation

1. Constitutional text

Article 4 of the Basic Law declares freedom of faith, conscience and creed inviolable, guarantees undisturbed practice of religion, and protects conscientious objection to armed service. It contains no express limitation clause, so the Federal Constitutional Court limits it only by conflicting basic rights and other constitutional values.[45] Article 3(3) prohibits discrimination on grounds of faith or religious opinion, and Article 33(3) makes access to public office independent of religion. Article 7(2) and (3) give parents the right to decide on a child's participation in religious instruction and make that instruction a regular school subject in most states.

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[42] *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, (2012) 565 U.S. 171; *Our Lady of Guadalupe School v. Morrissey-Berru*, (2020) 591 U.S. 732.
[43] *Mahmoud*, *supra* note 6, at 545–555 (likelihood of success), 546–550 and 557–559 (reliance on *Yoder*), 564–569 (strict scrutiny); Asma Uddin, "When Inclusion Becomes Compulsion: *Mahmoud v. Taylor*, Pluralism, and Public Education", *SCOTUSblog* (1 July 2025), *available at*: https://www.scotusblog.com/2025/07/when-inclusion-becomes-compulsion-mahmoud-v-taylor-pluralism-and-public-education/ (last visited 8 Nov. 2026).
[44] *Oklahoma Statewide Charter School Board v. Drummond*, No. 24-394 (US Supreme Court, 22 May 2025) (per curiam) (equally divided Court).
[45] GG, *supra* note 4, art. 4(1)–(3); *Headscarf I*, (2003) BVerfGE 108, 282 (BVerfG, 2 BvR 1436/02).

Article 140 imports Articles 136–139 and 141 of the Weimar Constitution: there is no state church (art. 137(1)); religious societies manage their affairs independently within the law applying to all (art. 137(3)); they may be public-law corporations (art. 137(5)) and levy taxes on members through the civil tax lists (art. 137(6)); and Sundays and holidays are constitutionally protected (art. 139).[46] The church tax is 8 or 9 per cent of income tax, depending on the *Land*, and can be avoided by formally leaving the church.[47]

2. Leading decisions

In the *Crucifix* decision, the Court held that compulsory crucifixes in Bavarian state-school classrooms violated the negative religious freedom of pupils and parents, stressing that a pluralist state can keep peace only if it remains neutral in matters of faith.[48] In the first *Headscarf* decision of 2003, the Court held that a teacher could not be refused entry to the civil service for wearing a headscarf without a clear statutory basis, which prompted several states to legislate bans.[49]

In 2015, the First Senate reversed course, holding that a blanket ban on religious expression by teachers in non-denominational public schools is unconstitutional unless there is a sufficiently concrete danger to school peace or state neutrality, and that neutrality is "open and comprehensive", not distancing.[50] A 2020 decision accepted that legal trainees may be barred from wearing a headscarf while exercising judicial functions if a statute so provides.[51] Other decisions concern group autonomy and ritual practice.

The 2000 *Jehovah's Witnesses* decision held that public-law corporation status requires lawful conduct but not loyalty to the state beyond that.[52] The *Schächten* decision of 2002

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[46] WRV, *supra* note 4, arts. 136(1)–(4), 137(1)–(8), 138, 139, 141.
[47] "Church Membership in Germany: Projections up to 2060", *Comparative Population Studies*, *available at*: https://www.comparativepopulationstudies.de (last visited 8 Nov. 2026); Deutschland.de, "Five Facts About State and Religion", *available at*: https://www.deutschland.de (last visited 8 Nov. 2026).
[48] *Crucifix*, (1995) BVerfGE 93, 1 (BVerfG, 1 BvR 1087/91).
[49] *Headscarf I*, *supra* note 46.
[50] *Headscarf II*, (2015) BVerfGE 138, 296 (BVerfG, 1 BvR 471/10 and 1 BvR 1181/10); Taylor, *supra* note 12.
[51] *Headscarf of Legal Trainees*, (2020) BVerfGE 153, 1 (BVerfG, 2 BvR 1333/17).
[52] *Jehovah's Witnesses*, (2000) BVerfGE 102, 370 (BVerfG, 2 BvR 1500/97).

assessed a Turkish Muslim butcher's ritual slaughter under Article 2(1) read with Article 4(1) and (2), because Article 12(1) protects the occupational freedom of Germans only.[53] It held that the authorities must accept a group's substantiated account of its mandatory rules without passing a value judgement on the belief, and that the group need not be a public-law corporation.[54]

The 2014 *Chefarzt* decision accepted the church's power to impose loyalty duties on employees within its self-understanding.[55] In 2018 the Court of Justice of the European Union held in *Egenberger* that national courts must effectively review whether a religious employer's occupational requirement is genuine, legitimate and justified.[56] On 29 September 2025 the Federal Constitutional Court set aside the Federal Labour Court's judgment awarding Ms Egenberger compensation, holding that it gave insufficient weight to the Diakonie's religious self-determination under Article 4(1) and (2) read with Article 140 and Article 137(3) WRV.

The Court found no *ultra vires* act by the Court of Justice and no insurmountable conflict between the two legal orders. It recognised that Article 4(2) of Directive 2000/78/EC leaves member states room to weigh the competing interests within the framework set by the Court of Justice, and refined the review into two stages: courts must examine whether an objective link exists between the requirement and the post, and must then assess proportionality while giving special weight to the community's self-understanding.[57] On remand, the Federal Labour Court dismissed Ms Egenberger's claim

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[53] *Schächten*, (2002) BVerfGE 104, 337 (BVerfG, 1 BvR 1783/99), paras. 31–33.
[54] *Ibid.*, paras. 55–57.
[55] *Chefarzt*, (2014) BVerfGE 137, 273 (BVerfG, 2 BvR 661/12).
[56] *Vera Egenberger v. Evangelisches Werk für Diakonie und Entwicklung e.V.*, Case C-414/16, ECLI:EU:C:2018:257 (CJEU, 17 Apr. 2018); Colombi Ciacchi, *supra* note 21.
[57] *Egenberger*, 2 BvR 934/19, ECLI:DE:BVerfG:2025:rs20250929.2bvr093419 (BVerfG, 29 Sept. 2025, published 23 Oct. 2025), headnotes 1, 3 and 4, *available at*: https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2025/09/rs20250929_2bvr093419.html (last visited 8 Nov. 2026); Heinig and Schorkopf, *supra* note 22.

on 21 May 2026, holding church membership a justified requirement for a post that involved representing the Diakonie externally.[58]

3. Statutes and amendments

After a Cologne court in 2012 treated the circumcision of a boy as bodily harm, the Bundestag inserted section 1631d into the Civil Code, permitting parents to consent to medically performed circumcision of male children subject to the child's welfare.[59] Article 20a, added in 2002 to protect animals, now frames ritual slaughter, for which section 4a (2) of the Animal Welfare Act permits exceptional authorisation. The Law on the Religious Education of Children (1921) lets a child decide on their own religion from the age of fourteen.

4. Current position

The cooperative model faces two pressures. Church membership is falling sharply. In 2024 about 322,000 people formally left the Catholic Church and about 345,000 left the Protestant churches of the EKD, while total membership, which also reflects deaths, fell by over one million.[60] In 2025 exits numbered about 307,000 and 350,000 respectively, and combined membership fell by about 1.2 million to 36.6 million.[61] Muslim communities,

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[58] *Egenberger*, 8 AZR 194/25 (F) (BAG, 21 May 2026); Bundesarbeitsgericht, Press Release No. 21/26 (21 May 2026), *available at*: https://www.bundesarbeitsgericht.de/presse/kirchenzugehoerigkeit-als-einstellungsvoraussetzung/ (last visited 8 Nov. 2026).

[59] *Circumcision* case, 151 Ns 169/11 (LG Köln, 7 May 2012); Bürgerliches Gesetzbuch [BGB] (German Civil Code), s. 1631d, inserted by the Gesetz über den Umfang der Personensorge bei einer Beschneidung des männlichen Kindes, 20 Dec. 2012, BGBl. I 2749.

[60] Deutsche Bischofskonferenz, *Kirchenstatistik 2024* (press release, 27 Mar. 2025); Evangelische Kirche in Deutschland, Press Release on Membership Data 2024 (27 Mar. 2025), *available at*: https://www.presseportal.de/pm/55310/6000156 (last visited 8 Nov. 2026); both reported in evangelisch.de, "Kirchen verlieren weiter Mitglieder" (27 Mar. 2025), *available at*: https://www.evangelisch.de/inhalte/241227/27-03-2025/eine-million-menschen-weniger-kirchen-verlieren-weiter-mitglieder (last visited 8 Nov. 2026).

[61] Deutsche Bischofskonferenz, *Kirchenstatistik 2025* (press release, 16 Mar. 2026), reported in katholisch.de, "307.000 Kirchenaustritte – katholische Kirche schrumpft langsamer" (16 Mar. 2026), *available at*: https://katholisch.de/artikel/67695-307000-kirchenaustritte-katholische-kirche-schrumpft-langsamer (last visited 8 Nov. 2026); Evangelische Kirche in Deutschland, "Evangelische Kirche veröffentlicht Mitgliedszahlen für das Jahr 2025" (press release, 16 Mar. 2026), *available at*: https://www.presseportal.de/pm/55310/6236467 (last visited 8 Nov. 2026).

which are not organised on the church model, find it hard to meet the conditions for corporate status.[62]

D. Chapter IV: India: Principled Distance and Judicial Supervision

1. **Constitutional text:** The Preamble secures liberty of belief, faith and worship and, since 1976, describes India as secular. Article 25(1) guarantees freedom of conscience and the right to profess, practise and propagate religion, subject to public order, morality, health and other fundamental rights. Article 25(2)(a) lets the state regulate economic, financial, political or other secular activity associated with religious practice, and Article 25(2)(b) allows laws for social welfare and reform and for opening Hindu religious institutions to all classes. Article 26 gives religious denominations the right to manage their own affairs in matters of religion and to own and administer property in accordance with law. Article 27 forbids compulsory taxes for promoting a religion, and Article 28 bars religious instruction in wholly state-funded institutions and compulsion in aided or recognised ones. Articles 14 to 16 (equality), 29 and 30 (minority cultural and educational rights), 44 (uniform civil code) and 51A(e) (the duty to promote harmony) complete the framework.[63]

2. **Basic structure and secularism:** *Bommai* held that secularism is a basic feature, that the state must treat all religions equally, and that state governments acting against secularism may be dismissed under Article 356.[64] In *Abhiram Singh*, a seven-judge bench held that an appeal for votes in the name of the religion of the candidate or the voter is a corrupt practice under section 123(3) of the Representation of the People Act, 1951.[65] In *Dr. Balram Singh* (25 November

[62] Ladeur and Augsberg, *supra* note 11.
[63] The Constitution of India, arts. 14–16, 25(1)–(2), 26, 27, 28(1)–(3), 29–30, 44, 51A(e).
[64] *Bommai*, *supra* note 30.
[65] *Abhiram Singh v. C.D. Commachen*, (2017) 2 SCC 629; The Representation of the People Act, 1951 (Act 43 of 1951), s. 123(3).

2024), the Supreme Court rejected the challenge to the words "secular" and "socialist", holding that Parliament's amending power extends to the Preamble and that the original text already reflected a secular ethos.[66]

3. **Essential religious practices:** *Shirur Mutt* and *Ratilal Panachand Gandhi* held that religion includes practices integral to it, to be determined with regard to the denomination's own tenets, while the *Durgah Committee* cautioned that courts may separate essential practices from superstitious or secular ones.[67] The test has been applied to hold that the tandava dance, a mosque for congregational prayer and loudspeaker prayer were not essential, whereas excommunication was held to be a protected denominational power in *Saifuddin*.[68] In *Indian Young Lawyers Association* (2018) a Constitution Bench held 4:1 that excluding women aged ten to fifty from Sabarimala violated Article 25 and was not an essential practice. A nine-judge bench heard the reference on the scope of Articles 25 and 26 from 7 April 2026 and reserved judgment on 14 May 2026; as of 8 November 2026, the date of the last check, no judgment had been pronounced.[69]

4. **Personal law, conversion and education:** *Shah Bano* led to the Muslim Women (Protection of Rights on Divorce) Act, 1986, upheld in *Danial Latifi*.[70] *Shayara Bano* (2017) set aside instant triple talaq, and Parliament criminalised it in the

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[66] *Balram Singh*, *supra* note 7.
[67] *Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282; *Ratilal Panachand Gandhi v. State of Bombay*, AIR 1954 SC 388; *Durgah Committee, Ajmer v. Syed Hussain Ali*, AIR 1961 SC 1402.
[68] *Acharya Jagdishwaranand Avadhuta v. Commissioner of Police*, (1983) 4 SCC 522; *M. Ismail Faruqui v. Union of India*, (1994) 6 SCC 360; *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, (2000) 7 SCC 282; *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay*, AIR 1962 SC 853.
[69] *Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1; *Kantaru Rajeevaru v. Indian Young Lawyers Association*, (2020) 2 SCC 1; Supreme Court Observer, *supra* note 7 (status last checked on 8 Nov. 2026).
[70] *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; The Muslim Women (Protection of Rights on Divorce) Act, 1986 (Act 25 of 1986); *Danial Latifi v. Union of India*, (2001) 7 SCC 740.

Muslim Women (Protection of Rights on Marriage) Act, 2019.[71] *Stanislaus* upheld state anti-conversion laws, holding that the right to "propagate" does not include a right to convert.[72] *Bijoe Emmanuel* protected Jehovah's Witness children who refused to sing the national anthem, and *Aruna Roy* upheld teaching about religions in schools as consistent with Article 28.[73] The Karnataka High Court upheld a uniform rule that excluded the hijab from pre-university classrooms, holding it not essential, and the Supreme Court delivered a split verdict on 13 October 2022.[74]

5. **Statutes and recent developments:** The Places of Worship (Special Provisions) Act, 1991 preserves the religious character of places of worship as on 15 August 1947, with the Ayodhya dispute excepted, and its validity is under challenge.[75] Under the Bharatiya Nyaya Sanhita, 2023, sections 196 and 299 penalise promoting enmity between religious groups and deliberate acts intended to outrage religious feelings.[76] On 15 September 2025, the Supreme Court refused to stay the Waqf (Amendment) Act, 2025 as a whole. It stayed the provision allowing a designated officer such as the Collector to decide whether waqf property is government land, because executive adjudication of title offends the separation of powers, and it stayed the requirement that a person practise Islam for five years before creating a waqf until State Governments frame rules to verify that condition. It declined to stay the omission of "waqf by user", and it capped non-Muslim membership at four of the twenty-two members of the Central Waqf Council and three of the eleven members of a State Waqf Board.

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[71] *Shayara Bano v. Union of India*, (2017) 9 SCC 1; The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act 20 of 2019), ss. 3–4.
[72] *Rev. Stanislaus v. State of Madhya Pradesh*, (1977) 1 SCC 677.
[73] *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615; *Aruna Roy v. Union of India*, (2002) 7 SCC 368.
[74] *Resham v. State of Karnataka*, 2022 SCC OnLine Kar 315; *Aishat Shifa v. State of Karnataka*, 2022 INSC 1085 : 2022 SCC OnLine SC 1394 (split verdict, 13 Oct. 2022).
[75] The Places of Worship (Special Provisions) Act, 1991 (Act 42 of 1991), ss. 3–5; *M. Siddiq v. Mahant Suresh Das*, (2020) 1 SCC 1.
[76] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), ss. 196, 299.

The challenge, which relies on Article 26 among other grounds, awaits final adjudication.[77] Uttarakhand enacted a Uniform Civil Code in 2024 under Article 44, which will test the balance between uniformity and Article 25.[78]

E. Chapter V: Comparative Analysis and Emerging Issues

The three systems are compared in the following table.

Aspect	United States	Germany	India
Text	First Amendment; art. VI(3)	Arts. 3(3), 4, 7, 33(3), 140 GG; WRV arts. 136–139, 141	Preamble; arts. 25–28, 14–16, 29–30
Model	Separation, moving to accommodation	Cooperation; open neutrality	Principled distance; state reform
Limits	Strict scrutiny if not neutral or general	Conflicting constitutional values	Public order, morality, health; Part III
Groups	Church autonomy; RFRA, RLUIPA	Self-determination; public-law status	Art. 26 denominations, subject to law
Schools	No official instruction or prayer	Religious instruction as regular subject	None in wholly state-funded institutions

[77] *In re: The Waqf (Amendment) Act, 2025*, *supra* note 7 (B.R. Gavai CJI and Augustine George Masih J; lead petitions W.P.(C) Nos. 269, 276, 284, 314 and 331 of 2025); The Waqf Act, 1995, ss. 3(r), 3C, 9, 14, as amended by the Waqf (Amendment) Act, 2025.
[78] The Uttarakhand Uniform Civil Code Act, 2024; The Constitution of India, art. 44.

Aspect	United States	Germany	India
Key test	History and tradition; strict scrutiny	Balancing; concrete danger	Essential practices; constitutional morality

1. **Text and structure:** Only India names secularism in its text, yet the American text is the most separationist and the Indian the most interventionist. Germany never uses the word, but derives neutrality from Articles 4, 3(3) and 33(3), together with the Weimar provisions. The Indian approach assumes that the state may reform religion for equality, as the Sabarimala and triple talaq decisions show. The American approach asks mainly whether the state has burdened or targeted religion. The German approach balances religion against other constitutional values.
2. **Who defines religion:** The German Court generally accepts a religious society's substantiated account of its beliefs, as in *Schächten*; American courts avoid ruling on doctrine and ask whether a belief is sincerely held; and the Indian Supreme Court has chosen to decide for itself what is essential. That judicial role is the pivot of the Sabarimala reference, and critics argue that the essential practices test makes courts arbiters of theology.[79]
3. **Symbols, dress and schools:** The three systems reach different results. Germany bars compulsory crucifixes but protects teachers' headscarves absent a concrete danger. The United States protects personal religious expression by public employees, as in *Kennedy*, and parental opt-outs, as in *Mahmoud*. India has upheld uniform dress rules in educational institutions, though the Supreme Court is

[79] *Schächten*, *supra* note 54, paras. 55–57; Mustafa and Sohi, *supra* note 18; Supreme Court Observer, *supra* note 25.

divided. As Mancini's study of the crucifix controversy shows, symbols raise the question of whose religious identity the public space reflects.[80]

4. **Meaning and use of proportionality:** In its standard form, proportionality asks four questions of a limitation on a right: whether it pursues a legitimate aim; whether it is suitable to advance that aim; whether it is necessary, in that no less restrictive means would serve the aim equally well; and whether its benefits outweigh the harm to the right, which is balancing in the strict sense.[81] German law applies this test, *Verhältnismäßigkeit*, to limits on Article 4. The *Headscarf II* decision held a blanket ban disproportionate in the absence of a concrete danger, and the 2025 *Egenberger* order built a proportionality stage into the review of church employers.[82] The Indian Supreme Court adopted a structured test in *Modern Dental College* and confirmed it in *Puttaswamy*,[83] but it has rarely, if ever, applied that test to Article 25 claims, which it continues to filter through the essential practices doctrine; counsel before the nine-judge bench disagreed on whether proportionality should now replace that doctrine.[84] American strict scrutiny shares the necessity limb through its least-restrictive-means requirement, but omits final balancing, and comparative scholarship treats it as a categorical alternative to proportionality rather than a version of it.[85]

5. **Convergence and divergence:** Measured against this definition, the hypothesis holds only in part. Germany applies proportionality in full. The United States applies strict scrutiny in *Lukumi* and *Mahmoud*, which tests compelling interest and

[80] Mancini, *supra* note 13.
[81] Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Doron Kalir tr., Cambridge University Press, Cambridge, 2012); Robert Alexy, *A Theory of Constitutional Rights* (Julian Rivers tr., Oxford University Press, Oxford, 2002).
[82] *Headscarf II*, *supra* note 51; *Egenberger* (BVerfG), *supra* note 58, headnote 3(c).
[83] *Modern Dental College and Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[84] Supreme Court Observer, *supra* note 25.
[85] Vicki C. Jackson, "Constitutional Law in an Age of Proportionality" 124 *Yale Law Journal* 3094 (2015).

narrow tailoring but does not weigh the burden against the benefit once those conditions are met. India ties restrictions to the textual grounds in Article 25 (public order, morality and health), which identify legitimate aims but supply no test of necessity or balance. The convergence is therefore one of balancing techniques with a means-end structure, not of proportionality as such. Divergence persists on funding and cooperation: Germany funds religious instruction and collects church tax, the United States forbids official religious instruction in public schools but now requires neutrality towards religious recipients of public benefits, and India bars instruction in wholly state-funded institutions yet regulates and administers religious endowments. Taylor's critique shows that rights catalogues may omit competing interests, such as pupils' education, that courts must then weigh indirectly.[86]

6. **Emerging issues:** Three issues stand out. First, religious pluralism is changing the demographic base of all three systems, with growing numbers of religiously unaffiliated people in Germany and the United States and the integration of Muslim communities in Germany. Second, personal law and religious management statutes, such as the 2019 Act and the Waqf amendments in India, show that legislation, not only adjudication, now shapes the secular state. Third, courts are moving from abstract tests to context, whether history in the United States, concrete danger in Germany or constitutional morality in India.

V. SUGGESTIONS AND RECOMMENDATIONS

1. **Judicial restraint in defining religious essentials:** The analysis shows that the Indian Supreme Court decides for itself what a religion requires, whereas the German Court accepts a group's substantiated account and American courts test only sincerity. When it delivers the Sabarimala judgment, the Court should confine

[86] Taylor, *supra* note 12.

judicial inquiry to whether the community sincerely and credibly holds a claimed practice, and should test any restriction by asking whether it serves a ground permitted by Article 25 or 26, whether it is suitable and necessary, and whether it strikes a fair balance with the rights of others, as *Modern Dental College* requires for other fundamental rights.[87] The obvious objection is that deference to the community's account would shield harmful practices. The answer is that public order, morality, health and the other provisions of Part III would still permit restriction; the reform changes who defines the practice, not whether the state may limit it.

2. **Statutory clarity in religious regulation:** The Waqf interim order shows that open-textured statutory conditions, such as five years' practice of Islam, cannot operate without rules, and that adjudicatory powers given to executive officers invite challenge.[88] Legislatures regulating religious institutions, including in future amendments to the Waqf Act, 1995 and the Places of Worship (Special Provisions) Act, 1991, should state in the statute itself: (i) the secular activity regulated, defined by reference to Article 25(2)(a); (ii) any objective test of religious status, with the evidence that suffices to meet it; (iii) the body that decides disputes, which should be a tribunal or court and not an executive officer; and (iv) the limits on participation by non-members in denominational bodies. A likely objection is that detailed criteria reduce administrative flexibility. Statutory criteria, however, draw the line between regulating secular activity and interfering in religious management in advance, and reduce the litigation that vague provisions generate.
3. **Equal inclusion of minority faiths:** Germany's cooperative model gives its benefits mainly to communities organised on the church model. Under Article 137(5) WRV a religious society obtains public-law corporation status if its

[87] *Schächten*, *supra* note 54, para. 57; *Modern Dental College*, *supra* note 84.
[88] *In re: The Waqf (Amendment) Act, 2025*, *supra* note 7.

constitution and the number of its members offer an assurance of permanence, and the *Jehovah's Witnesses* decision adds a requirement of lawful conduct and respect for the fundamental principles of the constitutional order.[89] The grant of that status to the Ahmadiyya Muslim Jamaat in Hesse in 2013 shows that a Muslim community can meet these conditions,[90] but many Muslim associations are federations of mosque societies without individual membership registers. The *Länder* should therefore offer cooperation agreements and partnerships in religious instruction to communities that satisfy the permanence and lawfulness criteria, without insisting on a church-like membership structure. The objection is that such flexibility dilutes the conditions that justify public privileges. Requiring permanence and lawful conduct, which the Constitutional Court has treated as the decisive conditions, would preserve those safeguards while removing a structural bias.

VI. CONCLUSION

The three systems show that "secular state" is not a single constitutional design. The United States relies on a textual barrier that its courts now read through history and accommodation. Germany relies on cooperation with religious societies under a duty of open neutrality. India relies on equal respect for all faiths together with a power to reform religion, a model confirmed as part of the basic structure in *Bommai* and reaffirmed in *Balram Singh*. The study's hypothesis is borne out only in part: the three courts increasingly use balancing techniques with a means-end structure, but only Germany applies proportionality in full, and each system keeps its own institutional logic.

Three findings follow. First, the identity of the body that defines religion, whether the community or the court, explains more of the divergence than the textual model of

[89] WRV, *supra* note 4, art. 137(5); *Jehovah's Witnesses*, *supra* note 53.
[90] Hessische Staatskanzlei, "Urkunde über die Verleihung der Rechte einer Körperschaft des öffentlichen Rechts an Ahmadiyya Muslim Jamaat in der Bundesrepublik Deutschland e.V.", *Staatsanzeiger für das Land Hessen*, No. 20 (13 May 2013) 634.

secularism. Second, legislation now shapes the secular state as much as adjudication does, as the German circumcision statute and the Indian Waqf amendments show. Third, the German *Egenberger* sequence and the American parental-rights cases show group and family autonomy expanding in both cooperative and separationist systems, while the Sabarimala reference, reserved on 14 May 2026, will decide whether India follows or departs from that trend. A further study could examine the pending Ten Commandments litigation in the United States and the Sabarimala judgment once delivered.

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