



Navigating Secularism: Exploring the intersection of Religion, State and Society.

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Abstract: Secularism although a lucid term, at times exceeds the ability of human reasoning. Since historical times we have seen how the term Secularism has been constantly evolving over the period. Politicians often use this as a tool to propagate their ideas about the same as per their understanding and personal interests. In the primitive era, a man was always considered an uncivilized and illogical human being but slowly as and when society evolved now a man is considered as someone possessing a more reasoned and logical approach than any other creature on this planet or exoplanet. In the same manner, the term Secularism has also evolved over some time.

Secularism can also be contemplated as a question of Jurisprudence as it requires a detailed analysis, thorough observation, and wide interpretation. This Research Paper will help not only in understanding the origin and evolution but also how it has often been misinterpreted by the people and society at large. This Research Paper will give a brief analysis of what secularism is, as enshrined in the Indian Constitution, and will connect to various cases and landmark judgments. It will also include a comparative analysis of Indian Secularism vis-à-vis the British form of Secularism. This Research Paper will try to clarify the concept of Secularism in a better and more analytical way to help the reader enhance his/her knowledge about the topic in depth.

Keywords: Secularism, Origin, Evolution, Interpretation, Analysis, Jurisprudence, Indian Constitution, British Constitution.

Introduction:

- ❖ *“Secularism is not about being against religion, it is about ensuring that everyone has freedom of conscience, regardless of their religious or non-religious beliefs.” – Andrew Copson.*
- ❖ *“I believe in a religion that propagates freedom, equality, and brotherhood.” – Chandrashekhar Azad.*

Secularism is a curious term. In one sense, it makes unity, integrity, communities, religions, and even countries through language, values, morals, and conscience. However, as intriguing as the concept is, this too has some peculiarities. The word ‘Secularism’ which is often perceived as a simple concept by people, is sometimes too complex and requires a strenuous effort to understand the origin, and accurate meaning of the same. Although,

most of us are familiar with the term ‘Secularism’ but little do we know about the real meaning of the same. It is equally important to mention that the term ‘Secularism’ does not find its origin in Indian texts or philosophies.

In the contemporary world, Secularism is primarily used to refer to anything that is outside of religion. A vast majority of people think that Secularism is against religion but it is crucial to highlight that Secularism was or is never against religion rather it draws a line of distinction between religion and the Government.

Origin of Secularism:

According to modern literature, the genesis of the word ‘Secularism’ can be traced in Western countries. It originates from the word ‘Saeculum’ which means ‘the world’. The ancient Greeks used the term widely to make a distinction between legislative and community affairs and Greek gods and goddesses. However, the word ‘Secularism’ became common in the English encyclopedia after a secularist philosopher in England, George Jacob Holyoake, used it to promote coherent and rational thought over authoritarian and religious precepts during the 19th century. Even one of the renowned English jurists, Jeremy Bentham’s ‘Theory of Utilitarianism’ supported and promoted the idea of the concept of secularism. Apostasy persecution was a defining feature of the French Revolution. But as science advanced, religious persecution declined and support for a secular state increased. Following the French Revolution, in the Soviet Revolution also, a secular state order was established. The USSR had an anti-religious stance before the French Revolution. Karl Marx was a secular person and he advocated the view that man makes religion, religion does not make a man. According to him “*religion was the opiate of the masses*”.

Secularism is defined by Webster’s New Dictionary as the view that the Church and religious considerations have no place meddling in public affairs. In Western countries, it simply means that religious and ecclesiastical matters should not enter into the affairs of the state. Therefore, it can be accurately said that Secularism in Western philosophy is nothing but a passive approach to religious tolerance. However, in the Indian context, it is not merely a passive attitude to religious tolerance but also giving equal respect to all religions as enshrined in the Indian Constitution. Nowadays it has acquired a great practical significance while resolving the practical problems of the society which the Court encounters while giving effect to principles of ‘secularism’ or state when there is an apparent conflict between them.

Evolution of Secularism in India:

Ancient India:

It was emperor Ashoka who for the first time as early as the third century B.C. announced the term “secularism.” According to him the word, ‘secularism’ implied that the state would not prosecute any particular religious sect. In his 12th rock edit at Kandahar, Afghanistan, Ashoka appealed not only for the toleration of all the religious sects Uttar also to develop a spirit of great respect towards them. Not only this but also the religious scriptures and the Vedic pieces of literature that is to say the four Vedas namely Rigveda, Samaveda, Yajurveda, and, Atharvaveda, the Upanishads and the Puranas of Hindu religion highlight the religious plurality of Hinduism.

Medieval India:

During medieval times, the Bhakti and Sufi movements brought people from different communities together. Both the Bhakti and Sufi movements highlighted the importance of personal experience and mutual connections such as love, peace, and harmony and connected this personal experience with the divine source of the universe and thus helped bring harmony and a sense of fraternity among the different sects of the society. The above-mentioned movements emphasized love and devotion to the almighty beyond rituals. Irrespective of their different religious ideologies, both the above-mentioned movements in medieval India, had some common principles and therefore had a severe impact on religion and society. Some of the distinguished characteristics include religious pluralism, rejection of ritualism, vernacular literature, women's empowerment, social equality, caste reform, etc. Akbar was the most secular ruler of medieval India. He was portrayed as an extremely benevolent Mughal emperor who engaged various Hindu rulers in his court.

Modern India:

India can rightly be described as the world's most heterogeneous society where several races have intersected through ancient times. These diversities gave rise to various problems, but the wisdom and profundity of the early leaders harmoniously resolved the issues. India since the year it has gained its independence been a secular nation. The 'secular' status of India is given by the supreme law of the land which is the Constitution. The 42nd Constitutional Amendment Act of 1976 which is also known as the mini-constitution inserted three new words to the preamble of the Indian Constitution Viz. Secular, Socialist, and Integrity. However, it is noteworthy to mention that the Supreme Court held that India was a secular state since the formation of the republic. Interestingly, it is the term "secularism" that has been discussed, re-discussed, interpreted, re-interpreted, and nonetheless misrepresented in our country¹.

The Elements of Secularism:

The elements of secularism have been best described by P.M. Bakshi, a former member of our Law Commission, and by Dr. Sarvepalli Radhakrishnan, our former President, a great statesman and philosopher. Dr. Radhakrishnan had ardently advocated for a secular India.

Bakshi, in his book, *The Constitution of India*, says the following about secularism:

"The state has no official religion. Secularism penetrates its provisions, which allow everyone the freedom to preach, practice, and spread any religion that they so want. Not only does the Constitution guarantee one's right to freedom of religion and conscience, it additionally safeguards the rights of non-believers and strictly prohibits the State from discriminating against any faith or religion".²

In his book, *Recovery of Faith*, Dr. Radhakrishnan proposes an expanded interpretation of secularism in our nation.

¹ (S.R.Bommai v. Union of India, 1994)

² (Bakshi, 2017)

“To state that the nation of India is a secular state does not imply that we elevate irreligion or deny the possibility of an afterlife or acknowledge the importance of religion in our daily lives. It does not imply that the state has divine rights or that secularism transforms into a positive religion. We maintain the other beliefs should also be accorded preference.”³

The above explanations by these two great statesmen are sufficient to reveal what secularism means in our country in a real practical scenario.

Constitutional Assembly Debates:

The debates of the Constitutional Assembly on the incorporation of the term ‘Secularism’ in the Preamble of the Constitution:

Secularism was a contentious issue that sparked violent altercations and heated debates on October 17, 1749, during the constituent assembly’s discussion of the Preamble to the Constitution. The makers of the Constitution were reluctant about the inclusion of secularism ideology. Thus, the debate regarding the inclusion or exclusion of the term ‘Secularism’ took up most of the Assembly’s time. The Amendment to start the Preamble with the words “in the name of God” was moved by H. V. Kamath to start the discussion that day.⁴ However, Pandit H. N. Kunzru and Shri Rohini Kumar Chaudhary vehemently disagreed with the amendment introduced by H.V. Kamath, arguing that by adding “in the name of God” we are embracing a restrictive, authoritarian, and sectarian ideology.⁵ Pandit Govind Malviya proposed an additional amendment claiming that since we are not discussing a specific God here, it is not anti-secular for the Preamble to open with expressions such as “*By the graciousness of the highest being, the creator of the universe called by various names by various individuals of the world.*” In addition to rejecting Kamath’s amendment, the constituent assembly also rejected a proposal from the opposing side to add the word “Secular” to the Preamble of the Constitution. “*We the people of India, having resolved to constitute India into a secular cooperative commonwealth to establish socialist order and to secure to all its citizens*”, states the opening statement of the Preamble, which was moved by another member of the constituent assembly, Shri Brajeshwar Prasad⁶. Unfortunately, there was no debate about the word ‘Secular’ being included, and Brajeshwar Prasad’s attempt to turn the Constitution into a socialist text rather than a liberal democratic one was criticized by the majority of those present, which was the reason precisely why his amendment was defeated despite him coming up with a unique concept of Secularism.⁷ In the Constituent Assembly, Brajeshwar Prasad had expressly mentioned his interest in incorporating two terms in the Preamble namely Secularism and socialism. He was of the view that adding Secularism in the Preamble of the Constitution would not only tone up the morale of the minorities but also check the spirit of the people that is rampant in politics.⁸ However, the amendment put

³ (Radhakrishnan, 1968)

⁴ (“Constituent Assembly Debates,” n.d., p. 439)

⁵ (“Constituent Assembly Debates,” n.d., p. 441)

⁶ (Prasad, B., 1947).

⁷ Prasad, B. (1947).

⁸ (“Constituent Assembly Debates,” n.d., p. 448)

forward by him was strongly negated by the members of the Assembly. Secularism was one of the goals of India since India was to be a democratic state post-independent. The removal of communalism from Indian society was imperative for the healthy functioning of democracy.⁹ The Constituent Assembly was of the view that there should be a clear line of separation between religion and state and this was the main reason why the members of the Assembly did not agree with the idea and notion of inclusion of 'in the name of God' in the Preamble.

The Basic Distinction Between two terms, “Secular” and “Secularism”:

In the contemporary period, the term secularism and its associated terms are being abused and misconstrued both at the national and global levels. There is a thin line of difference between “Secular” and “Secularism”. The world outside of religion is referred to as “secular” to characterize or explain it. The act of separating the religious and secular realms is acknowledged as secularization; this process frequently occurred with an impression of inevitable separation that has collapsed in recent decades. On the other side, secularism can refer to world views or ideologies on secular topics. The notion of Secularism is believed to have originated in the West. The term Secularism is not related to a particular religion or religious belief. Secularism as an ideology and secularism as a principle of governance (which is defined as the separation of church and state) encompass two entirely distinct things. The former defines religion and seeks to eradicate it, while the latter does not see or acknowledge religion.

Contemporary Issues with Secularism:

Although the doctrine of Secularism is of vital importance in the present day and is bolstered by a vast majority of the people even though it faces strong criticism.

Some of the challenges to the concept of secularism are listed below.

1) Rise of Religious Fundamentalism:

The Resurge of religious fundamentalism is at its peak in today's globalized world. This religious fundamentalism does not only pose a threat to secularism but also to democracy. according to the Cambridge Dictionary, Fundamentalism is defined as “the belief in old and traditional form of religion, or the belief that what is written in a holy book.”¹⁰ There is a slight difference between religious and fundamentalist. The former connotes giving respect and having faith in one's religion and at the same time giving respect to other religions whereas the latter is a belief that the traditional principles of a religion or set of beliefs should be maintained. Sometimes, this fundamentalism can go to such a large extent that it can lead to imposing a particular religion on different communities living in a democratic set-up. The former is a positive term whereas the latter means a negative ideology that is to say it can also lead to having an intolerant attitude towards people with different beliefs and world views. The objective of all

⁹ (Rao, 1966).

¹⁰ (Cambridge Dictionary | English Dictionary, Translations & Thesaurus, 2024)

honest and true religion is not the proud subjugation of others to one's dogma but a humble transformation into full union with God. Since the turn of the twenty-first century, it has become clear that religious extremist groups are widespread throughout the world. Remarkably, this conflict between religions is not limited to India; it is also common throughout the Middle East, South Asia, the former Yugoslavia, Northern Ireland, etc. Hamas and Jihad are two of the most common fundamentalist groups in the Middle East and a source of conflict between Israel and its neighbors. The ongoing conflict between Israel and Palestine is the most recent example of this tension. Communitarian strife, intolerance, and disrespectful attitudes towards each other's religion are the main causes of this chaotic and undesirable state of affairs between the two adjacent countries.

2) Challenges to Religious Freedom:

There are situations in which religious minorities experience prejudice or persecution, notwithstanding secularism's efforts to uphold religious freedom. Government regulations, cultural norms, or violent acts carried out by extremist organizations can all have an impact on this. Although independent India follows the principle of secularism and religious tolerance even though it has seen occasional and sometimes devastating fatal lapses. This religious violence has grown so much that it has become a significant reason for conflict and riots which eventually lead to catastrophic events. India is home to approximately 1.3 billion people which includes people from all religions. It consists of a Hindu majority of about 80% as well as a large Muslim minority of around 185 million (which is nearly 14%). Interestingly, despite being a Hindu-majority country, its Muslim community is the world's third largest with Indonesia and Pakistan being first and second respectively. Christians account for more than 2% (around 30 million) and Sikhs slightly less than 2% (around 22 million). The remaining 2% of the population includes Buddhists, Jains, and others.

As fascinating as the above demographic division is, its communal violence at the same time is a worrisome issue.

Following are some of the major incidents of lethal large-scale communal violence in the country to date that have targeted:

- Hindus in Hyderabad in 1948 (known as the Hyderabad Massacres) in which around 40,000 people have been killed.
- Sikhs in Delhi in 1984 (known as 1984 Anti-Sikh Riots) following the assassination of Former Prime Minister, Mrs. Indira Gandhi by her Sikh bodyguards with the number of deaths estimated at 8,000 – 17,000.
- Muslims primarily in Mumbai in 1993 and Gujarat in 2002 (known as the Bombay riots and the Naroda Patiya Massacre respectively) in which up to 3,000 combined deaths took place.
- Christians in the eastern state of Odisha (Formerly Orissa) in the year 2008 (also known as 2008 Kandhamal violence) which resulted in approximately 100 deaths.

3) Communalism:

Communalism is an ideology of individuals that divides states and tries to bifurcate people based on ethnicity, beliefs, religion, values, etc. Sometimes this feeling of communalism grows so strong that it leads to clashes in society. Communalism promotes belief in orthodox doctrines, intolerance, and hatred towards other religions and thus divides the individual in general and the nation at large. According to data from the National Crime Record Bureau (NCRB), over 2,900 cases of communal violence have been registered in the country in the last 5 years. These cases include communal riots, affrays, and mob lynching. The state of Manipur in north-eastern India has been engulfed in inter-communal violence for the last 10 months. According to the official estimates from the government, around 200 people have been killed in the violence whereas approximately 70,000 people have been displaced. Not only this but around 4,786 houses were burnt. The communal violence is so devastating in Manipur that even the religious structures have been destroyed, around 386 religious structures including temples and churches have been vandalized. The northeastern state of Manipur is just an example. A sporadic rise in communal violence can be seen all over the country.

4) Social Discrimination:

The modern Indian society is witnessing social discrimination. According to data released by the National Crime Record Bureau (NCRB), 50,900 cases of crimes against Scheduled Castes (SCs) were registered. This rate of crime was high in the states such as Madhya Pradesh and Rajasthan. India is witnessing such sharp discrimination despite having some strong safeguards against discrimination. The Constitution of India provides for various safeguards to individuals against discrimination and discriminatory practices. Articles 14, 15, 16, and 17 are the fundamental rights that are available to the citizens of the country. These articles assure equality before the law or equal protection of laws, prohibit discrimination based on religion, race, caste, sex, and place of birth, equality of opportunity in matters of employment, and prohibit the practice of untouchability respectively. Despite the constitutional and other statutory safeguards, discrimination and prejudice based on religious identity continue to exist in various spheres of Indian society.

The Western Concept of Secularism :

The Western concept of secularism differs from the Indian form of secularism. the doctrine of secularism practiced in the U.S. and France is discussed below:

1. U.S.A:

The First Amendment deals with two provisions regarding religion in the USA namely the Establishment Clause and the Free Exercise Clause. The Establishment Clause forbids the Government from establishing a particular religion. However, “establishment” is a vague term, and not quite apparent what it means. Historically, it meant outlawing churches supported by the state, such as the Church of England. The U.S.

Supreme Court established a standard test¹¹ and presently this lemon test determines what qualifies as an “establishment of religion”. According to this “Lemon” test, the government will support the establishment of religion only when it fulfills these three conditions.¹²

- (i) It serves a secular main purpose that is to say the primary purpose of the assistance is secular in nature.
- (ii) It does not encourage or impede religion.
- (iii) There is not an undue amount of entanglement between church and state.

2. France:

The French concept of secularism which is referred to as “laicite”, places a strong emphasis on the division of religion and state. Its goal is to guarantee religious neutrality in public organizations and it is codified in the French Constitution. This idea is frequently listed as a fundamental principle of the French Republic since it has a lengthy history in France, dating back to the French Revolution. But it has also been a contentious issue, specifically in the context of recent events involving matters like religious clothing in public places like schools. Recently, the French government declared that the practice of wearing an *abaya*, (an Arabic term for a burqa) in schools run by the state government would be banned. This announcement by the French government indicates that there is a complete separation between religion and the government.

Secularism in the Light of Various Enactments:

● Anti-conversion law:

Anti-conversion law is not a new concept but has been prevalent since the pre-independence period when India used to be a British colony. Many freedom fighters including our leader of the nation, Mahatma Gandhi, had strongly objected to the forceful conversion of Indians by the Christian missionaries. He strongly criticized the practice of forceful conversion and abandonment of one’s indigenous faith and belief.

In the present time, anti-conversion laws have been passed by many states in India including Uttar Pradesh, Madhya Pradesh, Uttarakhand, Himachal Pradesh, etc. Although the legislative intention to bring this law into force is bonafide to restrict forceful conversions, nevertheless, it restricts the freedom of religion of an individual which is protected as a fundamental right under Article 25 of the Constitution. Article 25 of the Constitution of India expressly provides that all the citizens of this country have freedom of conscience, free profession, practice, and propagation of the religion which in other words means that it is the will of an individual to which religion he wants to practice or follow.

The anti-conversion laws passed by various state legislatures are in the process of review because of the vague and ambiguous terms used in the statutes.

¹¹ (*Lemon v. Kurtzman*, 1971)

¹² (*United States Courts*, n.d.)

In a landmark case, it was held by the Hon'ble Supreme Court that a person is free to convert to another religion for marriage but such conversion should not be a means to avoid legal complications and proceedings and therefore a person should not misuse the freedom of religion which is given to him by the Constitution of India. Such a conversion should be bona-fide and a conversion solely for marriage is *void*.¹³

In another case, the apex court has held that a person is free to marry someone of their choice regardless of his caste, religion, and social status and any interference with this freedom would amount to violation of their right¹⁴.

- Uniform Civil Code (UCC):

As the name itself suggests UCC seeks to deal with all the aspects of civil and personal laws of the citizens irrespective of their religion. The objective of UCC is to have a uniform law concerning marriage, divorce, adoption, succession, inheritance, etc. The adoption of UCC will not only lead to securing a common, unambiguous, and uniform law throughout the country but also help the nation to achieve its goal of secularism in its true form. Adoption of UCC will develop a sense of unity, fraternity, and brotherhood in the individuals and will treat everyone alike with no discrimination based on personal laws and religion. Part IV of the Indian Constitution which deals with the directive principles of state policy provides explicitly for UCC. Article 44 of part IV states that the state shall endeavor to provide to its citizens a Uniform Civil Code applicable throughout the territory of India.

At present, Goa is the only union territory that has the concept of a uniform civil code and Uttarakhand is the only state in independent India that has passed the bill in its state legislature and successfully received the assent of the President this year. The bill has also restricted the practice of *halal*, *talaq*, and *iddat*.

- Citizenship Amendment Act (CAA), 2019:

The Indian Government has notified the rules of the Citizenship Amendment Act, 2019 which seeks to amend the Citizenship Act of 1955. It provides Indian citizenship to all undocumented non-Muslim migrants (Hindus, Sikhs, Jains, Buddhists, Parsis, and Christians) who have entered Pakistan, Afghanistan, and Bangladesh on or before 31st December 2014. However, it is important to highlight that this bill excludes the grant of citizenship to only the Muslim community. India is a secular nation and has an attitude of religious tolerance towards all religions but this exclusion of a particular community from the ambit of acquiring citizenship is not only discriminatory but also violative of the right to equality which is enshrined in Article 14 of the Indian Constitution. Religious persecution can be faced by any community and just because a specific community is in majority in a particular nation does not mean it is immune to the acts of religious persecution and violence. The CAA is discriminatory towards Muslims and thus should be reviewed and reconsidered by the Indian

¹³ (Sarila Mudgal v. Union of India, 1995)

¹⁴ (Lata Singh v. State of U.P., 2006)

government in a more open sense and a wider interpretation should be given. Citizenship should be granted only where required but Muslims should not be made an exception to it.

CONCLUSION

Secularism has always been a perplexing topic. This topic seems to be extremely perplexing to understand, as the scope of the same is limitless and infinite. To understand secularism, it is necessary to appreciate its close yet distinct relationship to the state, for it is increasingly penetrating that sphere. The understanding of the liaison between secularism and the state is necessary academically as well as practically. Secularism and democracy always go hand in hand. A democratic state cannot achieve its objectives and goals without having a secular element in it and nothing is more essential to a proper grasp of the topic of 'Secularism' than a clear understanding of its relation to the state.

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