



## SECULARISM: CONCEPT AND APPLICATION IN INDIA WITH SPECIAL REFERENCE TO CONSTITUENT ASSEMBLY DEBATES

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### Abstract

*The process of secularization has to be viewed in the context of separation of state from religion, but one has also to remember that secularization came to be an important handmaid of the entire process of modernization. Secularism has been thought of in various ways such as its antithesis to religion and its consistency with rationality, utilitarianism, materialism, individualism etc. The process and movement towards secularization has certain antecedents both in the world at large and in India. In India the movement towards secularization has its roots in the efforts to bridge the gulf between the Hindus and the Muslims so as to evolve a nation. It was felt that only through secularism could India evolve itself into a meaningful entity, particularly in terms of fighting against the British. In the Indian context, one has to remember that the content of secularism stems out of this major concern.*

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The process and movement towards secularization has certain antecedents both in the world at large and in India. Taking the overall development into account, one has to remember that secularism developed as a philosophy in reaction to the hold of religion on state. Secularism was equated with rationality, positivism, materialism, utilitarianism etc. George Jacob Holyoake is regarded as the father of secularism who started propagating the movement in 1846 and laid down its principles in his book *The Principles of Secularism*.<sup>1</sup> Even though secularism was regarded as materialistic and rationalistic at the same time it was an ethical system founded expressly to provide an alternative theory of life.

In India the movement towards secularization has its roots in the efforts to bridge the gulf between the Hindus and the Muslims so as to evolve a nation. It was felt that only through secularism could India evolve itself into a meaningful entity, particularly in terms of fighting against the British. In view of the communal riots which preceded and followed the partition of the country, secularism became an article of faith with our leaders who wanted to shape the destiny of India along secular lines. The leaders felt that it is only through secularism that the *two nation theory* which played such a havoc, and is playing even now, particularly in respect of Kashmir, could be finally put a stop to. In the Indian context, one has to remember that the content of secularism stems out of this major concern.

### Meaning

The process of secularization has to be viewed in the context of separation of state from religion, but one has also to remember that secularization came to be an important handmaid of the entire process of modernization. Secularism has been thought of in

various ways such as its antithesis to religion and its consistency with rationality, utilitarianism, materialism, individualism etc. Secularism has been regarded as the *sine qua non* of economic development, industrialization and an overall development in favour of rationality. A breakthrough from traditional social structure is implicit in the process of secularization. Secularism is felt to be congenial to innovation and change. On the other hand, a society where religion predominates is not so congenial to innovation and change.<sup>2</sup>

The word 'secular' is among the richest of all words in its range of meaning. It is full of subtle shades which involve internal contradictions and of these contradictions the conventional dictionary meaning can hardly give a correct view. But even so it is instructive to note what the Concise Oxford Dictionary and the Encyclopedias state to be the meaning of the word 'secular'.

The Concise Oxford Dictionary states that the word 'secular' is concerned with the affairs of the world, worldly not sacred, not monastic, not ecclesiastical, temporal, profane, lay.

Encyclopedia Britannica says the word 'secular' means: non-spiritual, having no concern with religion or spiritual matters.

### Structural Characteristics of Secularism

If secularism has to be a process of overall development, it will have to be something much more than mere economic and technological development. Some of the structural characteristics which would be an integral part of secularism would be Rationality and emphasis upon cognition; Scientific spirit; Individualization and individualism; Universalism and freedom pluralistic loyalty such as those of caste, kinship, region, religion etc. Rule of law; and Achievement of ethics. These characteristics constitute



an essential feature of modernization and secularism.<sup>3</sup>

### Elements of Secularism

According to Donald Smith upon closer examination it will be seen that the conception of a secular state involves three distinct but inter-related sets of relationship concerning the state, religion and the individual. These three sets of relation are:-

Religion and the individual [freedom of religion];

The state and the individual [citizenship];

The state and religion [separation of state and religion].<sup>4</sup>

Having adopted this definition, it may be noticed that the concept of secularism involves several elements, they are:-

One is that, every person must have the same rights as a citizen and must be entitled to the same basic human rights irrespective of the religion he professes and practices;

There must be complete freedom of conscience, thought and belief and everyone should be entitled to profess and practice the religion of his own choice;

And lastly, the state should not identify itself with any particular religion nor should it promote or support or discriminate in favour of any particular religion.

### Secularism and the Constituent Assembly Debates: Deliberate Omission

At the outset it must be pointed out that in the Constitution of India, as originally enacted, the word 'secular' did not appear in the Preamble to describe the character of the Sovereign Democratic Republic of India, nor was the word 'secular' used in the relevant provisions of the Constitution which guarantee freedom of religion. The omission to use the word 'secular' was not accidental but deliberate. The proceedings of the Constituent Assembly show that a member of the Constituent Assembly called Mr. KT Shah made some attempts to introduce the concept of secularism by using the word 'secular' or 'secularism' in a suitable place.

The first of these amendments related to Article 1 of the Draft Constitution which read: "*India shall be a union of states*" and the amendment sought to insert the words "secular, federal, socialist" after the words "shall be a" in the said Article so that as amended that Article would have read: "*India shall be a secular, federal, socialist union of states*".<sup>5</sup> The other amendment what Mr. KT Shah wanted to introduce was in the form of a new Article and it read thus: "*The state in India being secular shall have no concern with any religion, creed or*

*profession or faith; and shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizens or other persons in the Union.....*"<sup>6</sup>

*Professor K.T. Shah tried to get the said words incorporated a third time through a third amendment and failed.*<sup>7</sup> All these amendments proposed by Mr. KT Shah were opposed by Dr. BR Ambedkar, the Chairman of the Drafting Committee of the Constituent Assembly and were ultimately rejected.<sup>8</sup> *A further proposal for incorporating the words "secularism" as part of the preamble was also rejected by the Constituent Assembly.*<sup>9</sup> Thus it is evident from the above paragraphs that the omission to include the word 'secular' was deliberate and not merely accidental.

### Reason Behind such Deliberate Omission

It seems that perhaps, the Constitution framers were apprehensive that if the words 'secular' or 'secularism' were introduced in the Constitution, they might unnecessarily bring in, by implication, the anti-religious overtone associated with the doctrine of secularism as it had developed in Christian countries. The Constitution makers might perhaps had felt that it was not necessary to use the word 'secular' or 'secularism', particularly as it might give the impression of establishing a state structure inconsistent with the cultural ethos of Indian people.

### The 42<sup>nd</sup> Amendment- Inclusion of the Word 'Secular' in the Preamble

During the Emergency imposed by the Government of Mrs. Indira Gandhi, the Preamble of the Indian Constitution was amended by the Constitution [Forty-Second Amendment] Act, 1976 so as to include the word 'secular' before the words "Democratic Republic". The Indian Republic at that time appeared to be undergoing communal strains and the word 'secular' was inserted to emphasize the secular character of the country.

### Secularism and Judicial Observation

In *St. Xavier's College v. State of Gujarat*,<sup>10</sup> explaining the secular character of the Indian Constitution the Supreme Court said:

"There is no mysticism in the secular character of the State. Secularism is neither anti-God nor pro-God; it treats alike the devout, the antagonistic and the atheist. It eliminates God from the matters of the State and ensures that no one shall be discriminated against on the ground of religion....."

In *S.R. Bommai v. Union of India*,<sup>11</sup> a nine-Judge Bench referred to the concept secularism in the Indian context. According to SAWANT, J.:



“.....religious tolerance and equal treatment of all religious groups and protection of their life and property and of the places of their worship are an essential part of secularism enshrined in our Constitution.....”

B.P. JEEVAN REDDY, J., observed:

“..... while the citizens of this country are free to profess, practice and propagate such religion, faith or belief as they choose, so far as the state is concerned, i.e. from the point of view of the state, the religion, faith or belief of a person is immaterial. To it all are equal and all are entitled to be treated equally”.

In *Ismail Faruqui v. Union of India*,<sup>12</sup> VERMA, J., observed:

“It is clear from the Constitutional scheme that it guarantees equality in the matter of religion to all individuals and groups irrespective of their faith emphasizing that there is no religion of the state itself. The Preamble of the Constitution read in particular with Articles 25-28 emphasizes this aspect and indicates that it is in this manner the concept of secularism embodied in the constitutional scheme.....”

#### Secularism as a Basic Feature

In *Kesavananda Bharati v. State of Kerala*,<sup>13</sup> the Supreme Court *inter alia*, held that secularism is one of the basic features of the Constitution (as per SIKRI, C.J., as he was then). In *J.R. Bommai v. Union of India*,<sup>14</sup> the SC held that secularism is a basic feature of the Constitution.

#### Provisions<sup>15</sup> Relating to Freedom of Religion: Application of Secularism in India

In the discussions of the ‘secular’ provisions of the Indian Constitution from the drafting stage onwards, this point has been made repeatedly clear-

*When I say that a State should not identify itself with any particular religion, I do not mean to say that a State should be anti-religious or irreligious. We have certainly declared India to be a secular State. But to my mind, a secular State is neither a God-less State nor an irreligious State.*<sup>16</sup>

#### Meaning of Religion

Before we go on discussing freedom of religion in India or application of secularism in India, we need to know meaning of the term ‘religion’. The term ‘religion’ is not defined in the Constitution of India. According to *Christopher Marlowe*, “....religion is man’s one true way to salvation, to righteousness and even to manhood....”<sup>17</sup>

According to *Talcott Parsons*, religion is a matter of “concern of the innermost core of the individual personality for his own identity and commitments.”<sup>18</sup>

In *P.M.A. Metropolitan v. Moran Mar Marthoma*,<sup>19</sup> the

Supreme Court observed:

“..... ‘religion is the belief which binds spiritual nature of men to super-natural being’. It includes worship, belief, faith, devotion etc. and extends to rituals. Religious right is the right of a person believing in a particular faith to practice it, preach it and profess it.”

Article 25: Freedom Of Conscience And Free Profession, Practice And Propagation Of Religion.-

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of the Hindus.

Explanation 1.- The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation 2.- In sub-clause(b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion and the reference to Hindu religious institutions shall be construed accordingly.

Article 26. Freedom To Manage Religious Affairs - Subject to public order, morality and health, every religious denomination or any section thereof shall have the right- to establish and maintain institutions for religious and charitable purposes;

to manage its own affairs in matters of religion; to own and acquire movable and immovable property; and to administer such property in accordance with law.

Article 27. Freedom As To Payment Of Taxes For Promotion Of Any Particular Religion- No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or any religious denomination.

Article 28. Freedom As To Attendance At Religious Instruction Or Religious Worship In Certain Educational Institutions-

(1) No religious instruction shall be provided in any religious institution wholly maintained out of State funds.



(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious shall be imparted in such institution.

(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given consent thereto.

**Conclusion**

In the light of the above discussion it can be concluded that secularism in India has assumed several forms or aspects and it has come to stand for all that tends to-

eliminate religion and caste as factors in political life; remove legal, economic or social inequalities based on religion or caste;

ensure equal treatment by the state to various religious or sub-religious groups in the multi-religious society of India; and

integrate various religious and caste groups into a single stream of national life.<sup>20</sup>

In conclusion, the observation of the Supreme Court is worth mentioning, in *Aruna Roy v. Union of India*,<sup>21</sup> the Supreme Court observed that the concept of secularism is not endangered if the basic tenets of all religions all over the world are studied and learnt. Value-based education will help the nation to fight against fanaticism, ill-will, violence, dishonesty and corruption. These values can be inculcated if the basic tenets of all religions are learnt.

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