



Secularism in India and its constitutional aspects

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Abstract

Research paper primary aim is to provide the recent scenario of Secularism with contests to Indian Society & Law. However, researcher mentioned some other relevant factors of Secularism like, Political, Religious, anthropologists and Academic factor. Here researcher wants meaning and scope of Secularism with contests of Constitution of India. Researcher comes to this burning topic because of researcher long interest in the Law history of the colonial countries and Indian politics conflicts with law and the situation of Law, Order & Society, before & after the Independence India. India, presents one of the most colorful Law histories in this planet. India, have difference of religious, tradition, languages, religious holy book, religious holy places and India state with nuclearweapons. Researcher want to find what was the actual conditions to add the word “Secular” in the preamble of Constitution of India? Why Secular word added by amending the constitution of Indian? What we were not secular before 42nd Amendment Act, 1976? These problems were always catching researcher consternation to come there. Researcher have, so far try his best to research on Secularism, particularly with reference to Secularism and Indian Constitution, Secularism and Indian Judiciary, Secularism and Indian Legislative and Secularism and Indian Executive. We the people of India, this sentence is announcing the Indian Constitutions’ philosophy, that India is, Sovereign, Socialist, Secular, Democratic Republic i.e. these all the character is mentioned in the preamble of the constitution of India. The liberalization and modernization of the Indian culture and the associates’ socioeconomic, legal and political changes have brought in sudden upsurge of religious chauvinism, religious intolerance and fundamentalism. It has been a worldwide phenomenon and as a result of this, there has been hardening of indigenous, ethnic, religious and other cultural identities. This has led to conflicts and violence, through which different identity based group tend to maximize benefit for their members, large scale communal, ethnic, caste, terrorist and other conflicts have taken place in various parts of the country and society has been fractured and polarized on communal lines. Such violence tends(ed) to disrupt peace and unity and integrity of the nation.

Keywords: sovereign, socialist, secular, democratic republic, fundamentalism

Introduction

It is not clear that what is mean by Secularism, but some questions arise like, what is Secularism? What is meaning and Scope of Secularism under the Constitution? What is Secular mean by Indian Politics / Society? What Secularism can become mandatory for India? What Secular function is required for modern & democratic India? What debate on Secularism in modernity is good or evil? Secularism is a beleaguered doctrine everywhere. The Secular state is questioned not only by Politician, civil society groups and clerics. Secularism is contested even by academics. Indian academics were among the first to voice their opposition to Secularism. 1 Criticism of Secularism is worldwide included India also. However, writing on Secularism us deeply ambiguous. Researcher do not this because they have an interest in classification per say, but rather, because of the need to identify a version of secularism that meets the most important objections mentioned earlier and because of researcher belief that an indifference to this objection and the consequent smugness that ensues from this neglect bolsters otherwise indefensible anti-secular state. Here researcher fixes his researcher area only limited to context of Only Indian Secularism.

Secularism is believed to be a basic postulate of the Constitution but a deep analysis of its provisions clearly shows that the concept is limited, qualifies and unique. The Supreme Court of India had once described the religious, linguistic and cultural diversity of India in these legend words:

“India is the most popular country of the word. The people inhabiting this vast profess different religious and speak different language. Despite the diversity of religion and language, there runs through the fabric of the Nation the golden thread of a basic innate unity. It is a mosaic of different religious, languages and cultures. Each of them has made a marks on the Indian policy and India today represents a synthesis of them all.” [Ahmadabad St Xavier’s College Society V State of Gujarat AIR 1974 SC 1389]

Meaning & scope of secularism in Indian constitution

In this research paper tries to discover the Meaning and scope of term “Secularism” under the Constitution of India. This research paper has been divided in main three parts (i) Judiciary angle (ii) Legislative angle and (iii) Executive angle. In this chapter also included the total Judgment of Indian Judiciary on the term of Secularism.

Researcher also explains the relation of “Secularism” with Indian constitution and especially with the preamble and fundamental rights. Here also study had been completed on Preamble of the various countries, where constitution is in written form.

Jawahar Lal Nehru, “We call our State a secular one. The word secular, perhaps, is not very happy one and yet, for want of a better we have used it. It does not mean a State where religion as such is discouraged. It means freedom of religion and conscience, including freedom for those who may have no religion. It free means, play for all religions,

subject only to their not interfering with each other or with the Basic conceptions of our State. Dr. B.S. Ambedkar considered the concept of secular State in the form where Parliament shall not be competent to impose any particular religion upon the rest of the people.”

Dr. S. Radha Krishnan “when India is said to be a secular State, it does not mean that we reject the reality of an unseen spirit or the relevance of religion to life or that we exalt irreligion. It does not mean that secularism itself becomes positive religion or that the State assumes Divine prerogative, though faith in the Supreme Almighty power is the basic principle of the Indian tradition the Indian State will not identify itself with or be controlled by any particular religion. We hold that no one religion should be given preferential status or unique distinction, that no religion should be accorded special privileges in national life or international relations for that would be violation of the basic principles of democracy and contrary to the best interests of religion and Govt.”

Lancy Lobo, “Secularism is an outcome of the modernisation process in the West. Enlightenment, progress of science and reason were brought to bear on religion. The State and the church were separated. Atheism, materialism and secularism dealt blows on religion reducing its influence in the lives of people at the personal, familial and societal level. In the West organised religion was relegated to the background and to private realm. For some atheism, materialism and secularism itself became a religion. In major universities one was considered to be bright if he ridiculed religion.

The crisis of Indian secularism

In this research paper, researcher tries to cover the major issues which are connected with the term “Secularism”. In India what are the major issues which are the creating the problem to nation building. And also participated and presented the research problem on the Research topic at “Word Atheism Conference in Vijayawada (A.P.), and get the great experience and encourage to compile the research. Also interviews various Strict religious personalities, various secular personalities and various atheist personalities.

Secularism-relation between religion and law

Researcher tries to reach at the relation stage of the Religion and Law and with specially reference to term “Secularism”. Here mention the sources of the Religious and the sources of the Law and also sources of the “Secularism”

The secularism and Indian politics

Research tries to clear the relation between the terms “Secularism” and Indian Politics. Research thinks that this term is very gratefully *viz-vis* shamefully introducing by the Indian Politicians as well as Indian Political parties. In this chapter also cover the Political speeches, hate speeches and Intolerance speeches.

Role of social reformers

Social reformers like Raja Ram Mohan Roy who opposed the inhuman custom of Sati, championed the secularisation of society and positive interference of the State with a view to curb anti-social acts of religion. Ishwara Chandra Vidya Sagar, an agnostic, advocated widow remarriages. A number of social reformers of the 19th century who were

influenced by western ideas and education, strove incessantly for widow remarriages, spread of education among women and ban on religious practices, which were not in tune with the progress of society. Mahatma Phule and Maharshi Karve devoted their lives for the promotion of women education, braving the opposition of the orthodox sections of the society. A number of social reformers of Maharashtra, Bengal and Andhra opposed orthodoxy and championed liberal views and reform. Mahadev Govind Ranade, Pandita Ramabai, Kandukuri Veeresalingam, Keshab Chandra Sen, Devendranath Tagore, Ram Vilas Sharda and many others were heretics in their own times who were in favour of liberalization of religion and secularization of institutions. The advocacy of religious toleration and equal respect to all religions was, in itself, a progressive step till the advent of independence in India.

Religion vs nationalism

The British rule in India, on the one side, brought the country together, politically, through communications such as Railways, post, telegraph and also by providing a link language, in the form of English. This opened the window to the West and outside world to let the fresh breeze in of secular ideas. But, at the same time, the British Government followed a policy of ‘Divide and Rule’ and encouraged and established separate electorates for Muslims and Sikhs through the Constitutional Reforms of 1909 and 1919, which ultimately culminated in fanning the communal hatred and Muslim separatism in particular, which resulted finally in the partition of the country into secular India and Muslim Pakistan. Pakistan became Islamic State and India maintained its sanity and continued as a Secular State. History bears testimony to the fact that the partition of the country on the basis of religion was untenable, as the Muslim Pakistan was further subdivided into Bangladesh. It reveals in unmistakable terms that religion should not be the basis for a state, as common religion alone could not hold the country together. The nationalist movement in India, right from the latter part of the 19th. century, drew inspiration from the secular concepts. The Indian National Congress remained a secular organisation. In fact, in Indian nationalism secularism was an important strand. They opposed religious fundamentalism and moves for the partition of the country on religious basis. Mahatma Gandhi considered religion a personal matter and he was for the formation of a secular state. Jawaharlal Nehru was not only a socialist, but also a great champion of humanism and secularism. He was a source of inspiration for socialists and other progressive elements in India.

Constitution and secularism

The 42nd amendment to the Constitution introduced by Mrs. Indira Gandhi, the then Prime Minister, reiterated the secular character declaring India as a "socialist, secular, democratic state." The Fundamental Duties incorporated into the Constitution through the same Amendment make it the responsibility of every citizen to strive for the promotion of "the spirit of inquiry, scientific outlook, humanism and reform." The Constitution of India, abolished untouchability and its practice in any form was prohibited. Special preferences in the name of religion do not exist. In India, secularism does not mean mere separation of religion and state but, the abolition of the practice of untouchability and promotion of castelessness. It is a welcome gesture on the

part of various state governments in India, which announced special incentives to the inter-caste married couples, and also preference in government jobs to them on some occasions. The Untouchability (Offences) Act was renamed in 1976 Civil Rights Act. The change in nomenclature was in tune with the aims and aspirations of the people. Thus the trend towards secularism received support not only during the nationalist movement but also in post-independence India. However, to bring change in the centuries-old tradition-bound India, it requires constant persuasion, support and repeated efforts to strengthen the democratic and secular ramparts we guard.

Threats To Secularism

In India, secularism receives challenges from many fronts, Casteism and communalism are losing their credence, because of the spread of science and technology and communication, as well as liberal and progressive outlook. But on the contrary, casteism and communalism are getting a new lease of life because of the short-sighted policies of, power-hungry politicians and the narrow outlook of the administrators and the leaders. Instead of proceeding on the path enunciated in the Constitution, the leaders fanned the communal and caste passions of the people, with a view to reap the harvest of votes and to achieve their partisan ends. The politicization of caste and religion and pampering of communal leaders is causing, great harm to the body politic of the nation. The time has come to strengthen the secular values, institutions and practices in an uncompromising manner and to accelerate the pace of change in India. The rise of communalism, casteism, obscurantism and fundamentalism are warning signals that whip up emotions and cause strife in the name of religion and caste threatening national integration and the very unity of the nation.

Removal of caste & religion columns

Similarly, Atheist Centre is in the forefront of educating the heads of the educational Institutions that one need not fill the columns of caste and religion in the application forms. In the beginning the tradition bound and arrogant educational institutions refused admission to Atheists for not filling up caste and religion in the application form. Atheist Centre took the specific instances up to the level of Union Education Minister and the University Grants Commission to mend the ways of a college. The matter was debated in the Andhra Pradesh State Legislature also, for not admitting atheists into the college on the ground of not filling up the columns of caste and religion. The college had to abide by the Constitution and admitted atheists. Atheists strongly advocated the omission of the columns of caste and religion in the application forms of the educational institutions. Sometimes the arrogant and adamant stance of Educational authorities forced atheists to move the matter in courts also. One such matter which requires special mention in this regard is the case of the children of Mr. B. V. Subbaiah a member of Atheist Friends Association. Mr. Venkata Subbayya's two children who were studying in the First standard of a primary school of the government were dismissed from the school by the Assistant District Education Officer, for not filling up the columns of caste and religion. In spite of the parents' insistence that they had no caste and religion, the children were dismissed from the school. The dismissal of his children was challenged by Atheist B. V. Subbaiah in Andhra Pradesh High Court.

Justice P. A. Choudhary of Andhra Pradesh High Court admitted the writ petition (No. 493 of 1980) on January 29, 1980 and directed the school authorities of Gandavaram Elementary School in Nellore district of A. P. to readmit the children and allow them to continue their studies. The Atheist Centre 263 undertook activities for the promotion of Secularism right from the grass-root level in the villages to the highest institution, Parliament of India.

Efforts for castelessness

Atheist Centre is in the forefront of promoting intercaste and casteless marriages. More than five hundred such marriages took place at the Centre and other parts of the State. Members of Atheist Centre placed an example before others by marrying casteless and breaking the barriers of untouchability. It is the example that inspires others in the efforts for social equality. In addition to the casteless marriages, it also organises social mixipot programmes where food is cooked in different homes, but eaten together transcending the barriers of caste. It organises gatherings of the Inter-caste and casteless couple and honours them. It also encourages marriages under the Special Marriage Act, which is a secular method without reference to caste and religion. Inter-religion marriages between Hindu Muslim, Hindu-Christian, Hindu-Sikh is held at the Centre strengthening secular values.

Secular and humanist education

With a view to promote literacy and education on secular and humanist lines, Atheist Centre organises Education and Awareness programmes. Adult and women education is an important ingredient of the activities of the Atheist Centre. Substantial work has been done by Atheist Centre in the field of social and adult education. Gora's books for adult literacy and scientific and social outlook are widely read.

Objectives

- To impart & promote scientific, secular, democratic & cosmopolitan outlook among people through various educational processes and to make them better citizens by helping them to realize their responsibilities and to discharge their duties in society.
- To establish educational institutions and training centres at various levels for promoting formal, non-formal and experimental education, adult education & social education, and skills for self reliance.
- To impart & improve skills among people in agriculture, industry, commerce and trade.
- To promote health education & establish hospitals & other medical programmes.
- To promote fine arts for cultural and moral development.
- To help & promote peaceful, nonviolent and constructive activities for social change, and Positive Atheism.

Conclusion

The word "Secular" we are hearing from the Political person and we are reading in the political manifesto or pamphlets or banners. It means we can say that the word "Secular" is the famous word for the political person. In the society we can find there are two kinds of peoples, one who like Secular politician and one who like communal (Non-Secular) politician. Recently Hon'ble Home Minister of

India give the definition of Secularism from the Parliament of India, he says Secular means “PANTH NIRPEX NOT DHARM NIRPEX” and our parliament of India also a enjoy a great session on Secularism and Intolerance and Hon’ble Prime Minister of India Mr. Narendra Modi has also spoke on the said topic. Actual controversy of Secularism was start from the Emergency and it’s going on to till date with this Government. Recent Government wants to interpreted this word in favor of large public interest, and it is good for the nation. Bharat, it’s called India, the country of different religious, languages, traditions, festivals and also different types of political parties. While the India is the fastest economic growing country in the world, and also growing the numbers of political parties in India. Section 29A of the Representation of People’s Act, 1951 defines the registration of a political party. Any association or body of individual citizens of India can register as a political party with the Election Commission of India (ECI) by following the guidelines laid down for this purpose. Indian politics and word “Secular”, “Religion”, “Communalism”, “Castes” etc. are very closer to each other. So that every political party and every political person want to get the benefit of all these words and wants to speak or write these words for their political progress. In this situation we the people of India, just listing them or we are reading them. And some people say that speech was marvelous and some says hate speech. We cannot say that all the Indian Politicians Are Secular *viz-versa* communal. So we can say that Indian Politician is balance politician in the world. It is very good think for the Indian society. That’s why Indian economy and Indian cultural society are going on same tract and going to growth also.

References

1. Agraval RN. National Movement and Constitutional Development in India. Metropolitan Book Co. Ltd., Delhi 5th End, 1965.
2. Ayub AS. Secularism in socialism, democracy and secularism, National book trust of India, Ministry of Education, Delhi, 1965.
3. Ahir DC. The Legacy of Dr Amhedkar. B.R. Publishing Corporation. Delhi. A.R., Lakshman, Report of the Law Commission of India, 2010, 1990.
4. Anand, The Constitutional Law & History of Govt of India, 2008.
5. Andhyarujina. The Keshvan and Bharati Case, 2013
6. Ansari, Iqbal A., Hindu-Muslim Living Toget her How? -New Delhi: Inter-Community Peace Initiative Minorities Council, 2003.
7. Attar Chand, Nehru Socialism and New Economics Order, Deep and Deep Publications, New Delhi, 1980, 4.
8. Alam, Javeed. India Living with Modernity -Delhi: Oup, 1999.
9. Azad Maulana Abut Kalam. India Wins Freedom, Orient Longman, Hyderabad and Madras, 1988.
10. Constitution of India.
11. Indian Penal Code – 1860.
12. Code of Criminal Procedure, 1973.
13. Charitable and Religious Trust Act, 1920.
14. Religious Institutions (Prevention of Misuse) Act, 1988.
15. Special Marriage Act 1954. Hindu Marriage Act, 1955.
16. Durgah Khawaja Saheb Act, 1955.
17. Hindu Succession Act, 1956.

18. Hindu Minority and Guardianship Act, 1956.
19. Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1956.
20. Press Council Act, 1978.
21. Muslim Women (Protection of Rights on Divorce) Act, 1986.
22. www.google.com.
23. www.legalserviceindia.com
24. www.india.gov.in
25. www.indiankanoon.org
26. www.wikipedia.org