

BURNISHED LAW JOURNAL*ANURAAG SHARMA**Persuing LLm 2nd semester from Seedling School Of Law and Governance, Jaipur National University***SECULARISM: WHAT IT WAS - WHAT IT IS****ABSTRACT**

A word which can change the world, which can change the communities which can create harmony between the people of the country, secularism giving it a dictionary meaning which means that every person should be free to profess religion, in India every person has the right to profess their own religion without any restriction being their fundamental right, since 19th century it is being practiced in India, even the word secularism was first found in Indian scriptures, but then after British government vanished this practice from India and divide India on the basis of communities and start ruling them.

Also secular the part of preamble was not properly implemented in the country like India having vast religious diversification neither fundamental rights were implemented nor any uniform law was made by the legislatures.

This paper dictates about the word secularism i.e. what secularism tends to be and what it actually is.

INTRODUCTION

Communal rights never ended in India, even being declared as a secular country still India is unable to enjoy any kind of unity between different community resides in India. Not only single community or people related to a single religion are involved in disturbing peace of the country but person of each and every religion is related in this. From the incident of destruction of Babri masjid to the Sikh community after assassination of prime minister Indira Gandhi and other various communities in India every person is still fighting for their place in India. The preamble of constitution amended under 42nd amendment act under supervision of prime minister Indira Gandhi where Secular, Socialist and Integrity was included in the preamble. Secular country which express that India will be a country where each and every citizen of India has all the rights to profess their religion and no other person can impose religion on other person, as it is protected under Article 25 of part 3 of Indian constitution. Still there are people, community trying to impose their religion on the people of other religion as these people want India to be a country with so religion.

Secularism is believed to be a basic postulate of the Constitution however a deep analysis of its provisions clearly shows that the concept is limited, qualifies and distinctive. 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 mark on the Indian policy and India today represents a synthesis of them all."¹

¹ Ahmadabad St Xavier's College Society V State of Gujarat AIR 1974 SC 1389

The main Aim of inclusion of word secularism was to create equality between diversified religion in the country that means to provide equal rights and protection to every religion in India.

Still some question arise regarding secularism

1. Whether the secularism introduced in the Indian constitution is to protect rights of each citizen or to destroy India.
2. Whether secularism is what it tends to be or people of India misinterpreted it.
3. Whether the word secularism is to be excluded from the preamble (according to demand of present situation).



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HISTORY

The word Secularism was initially used by British writer George Holyoke in the year 1851² the word was basically used by him to explain his views regarding maintenance of social order which will be separate from religion, he explained that secularism is not an argument against any religion but it maintains light and guidance in secular truth.

Where on the other hand Barry kosmin separates secularism in two parts i.e. soft and hard secularism³.

In Indian culture the word secularism can be found in the document of Charvaka system of philosophy which held direct perception, empiricism, and conditional inference as proper sources of knowledge, and sought to reject the prevailing religious practices of that time.⁴

After this the word secularism came into existence with basic meaning of being intact i.e. keeping religion being separate from social order. Still the politicians have given the political meaning to the word secularism where the secularism was given the meaning as separation of religion and government i.e. no religion should be involved in the state.

In India Maharaja Ranjeet Singh was the first person who successfully established the secular rule in Punjab where he respected every kind of religion and people of every religion was a part of his Darbar.⁵ Not only this many other emperors in India has practiced secularism, Ashoka who treated people equally, Akbar who used “sul- hi- kul” meaning harmony between religion. Which afterwards was distorted by British government by dividing India on basis of religion which was according to their theory of divide and rule.

After that secularism was rarely practiced in India, even at the time of making of Indian Constitution religious rights to minorities were provided under fundamental rights and directive principle of state policies but in Indian Constitution there was no expression present related to secularism in the country. Somewhere 1975 at the time of amendment of the preamble after declaring preamble as a part of the constitution and falls under the ambit of Article 368 of Indian

² Holyoake, G. J. (1896). English Secularism: A Confession of Belief

³ Hard and soft secularists and hard and soft secularism: An intellectual and research challenge; Barry A. Kosmin

⁴ "Indian rationalism, Charvaka to Narendra Dabholkar". The Indian Express. 2018-08-21

⁵ K.S. Duggal, Ranjit Singh: A Secular Sikh Sovereign, Abhinav Publications (1989) ISBN 81-7017-244-6

Constitution⁶, in 42nd amendment of the constitution of India the word Secular was included in the preamble with its basic meaning of it, in the guidance of Indira Gandhi as she has done many amendments in the Indian constitution. After this act of Indian government secularism was a part of Indian law through which people of minority religion in India was given an equal stage as that of the majority religion in India. Also it was held by Indian judiciary that “that Religious tolerance and equal treatment of all religious group and protection of their life and property and the places of their worship are an essential part of secularism enshrined in our constitution. while the citizen of this country are free to profess, practice and prorogate such religion, faith or belief as they choose, so for 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. Further the Court while emphasizing upon the significance of Secularism declared it as the basic structure of the Constitution”⁷.

Today secularism is a part of Indian law and is a basic structure of Indian Constitution, still the question arises is secularism still practiced in India?



SECULARISM: WHAT IT WAS & TENDS TO BE

⁶ Kesavananda bharti v. State of Kerala, AIR 1973 SC 1461

⁷ S.R. Bommai vs. UOI, AIR 1994 SC 1981; Aruna Roy vs. UOI, WRIT PETITON (CIVIL) No. 98 of 2002

India being a vast country having diversified religion in it i.e. India is the only country in the world where there is different religions found, as at the time of framing of the constitution the drafters of the constitution keeping in mind the rights of the different religions in the country has provided the minority religions with some of their basic and fundamental rights, as if it was not given to the people of minority religion then it was difficult for them to live in India and freely profess their religion, including the minority religious rights in the basic structure of the constitution was also because of the partition riots between India and Pakistan. It was necessary to protect the religious rights of the people who are unable to move to Pakistan or who all were stopped from going to the Pakistan. After the word secularism was included because of the partition of Bangladesh as the minority religion in east Bengal was unable to profess their religious rights even after was included as fundamental right in the Indian Constitution. After which around 1975 the 42nd amendment was introduced to protect the fundamental right to profess their religion.

Secularism expressed as a basic structure⁸ of Indian Constitution and under the rights which are related to or somewhere talks about the secularism in the state was already enshrined in part 3 and part 4 of Indian Constitution. It was nowhere expressed in the India Constitution before 42nd amendment, which afterwards becomes a basic structure of the Indian constitution.

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The main aim of the government to introduce the word in secularism was to create equality between the people of different religion living in India, to create neutrality between the religions present in India.⁹ To allow people to equally entitled to freedom of conscience and right to freely profess and propagate their religion.¹⁰

As many landmark judgments and many other government of India has tried their level best to create India as a secular country, helping people to profess their religions, and also it has taken place and in India secularism was in practice fluently. Every religion was treated equally and every religion was given their fundamental rights guaranteed by the constitution. It can be said that at that point of time kind of positive secularism was followed where every religion was same. It was followed what it was meant and what basic meaning was given to the word.

⁸ S.R. Bommai vs. UOI, AIR 1994 SC 1981; Aruna Roy vs. UOI, WRIT PETITION (CIVIL) No. 98 of 2002

⁹ Suresh Chandra Chiman Lal Shan v. Union of India, AIR 1975 Delhi 168

¹⁰ Indira Nehru Gandhi v. Rajnarain, 1975 Supp SCC 1



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SECULARISM: STATE OF INDIA

India can never be a secular country if it wants to be the one it can't reasons behind is politics and laws that means each Religion in India have separate law i.e. Hindus are governed with Hindu laws, Christian with Christian law and Muslim with Muslim law and if any one law is taken off from community their right to equality is being taken away from them as per the arguments,

Not only related to this but politics plays a major role in creating communal hatred and murdering secularism,¹¹

1. Separate laws for ever community
2. Temples are controlled by government and not churches and mosques
3. Different laws for minority schools and majority schools
4. Subsidies for haj and not for amaranth yatra

These main reasons behind communal hatred is mostly government and communal laws, being treated as minority the minority religions are not at left minority not talking about separate legislations even in Indian Constitution The basic rights of religion under Article 25- 30 is provided to minority and nothing was provided to the majority due to majority is the new minority not only this there are many incidents which has become the reason of communal hatred.

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Removal of Article 370:

At the point of time when Article 370 was abolished from Indian constitution people of Kashmir felt that their rights were taken away from them which resulted in terrorist attacks and people on roads protesting, curfew in Kashmir etc.

on other hand where 'Give us 10 crore rupees,' Tamil Nadu government orders temples to pay, provides rice worth 11 crore rupees for Ramzan¹² here government of Tamil Nadu ordered temple to provide them with 10 crore rupees and not to the mosques even the Muslims of Tamil Nadu was provided with the rice for Ramzaan in the situation where most people does not have

¹¹<https://economictimes.indiatimes.com/news/politics-and-nation/why-india-is-not-a-secular-state/articleshow/50072294.cms?from=mdr>

¹² <https://tfipost.com/2020/05/give-us-10-crore-rupees-tamil-nadu-govt-orders-temples-to-pay-provides-rice-worth-11-crore-rupees-for-ramzan/>

food to eat in pandemic situation of 2020, moreover in Jaipur itself the Muslims of city area are provided door to door service of food and why not to any other community.

Secularism was introduced by the government and is destroyed by the government, not only secularism but what about Article 14 and 15 of Indian constitution at least they are the rights provided to each and every citizen of India. Why it is only provided to a single community and not to every community. What about Uniform Civil Code under DPSP in the Indian Constitution why UCC is not yet enforced.

I Agree secularism do present in India but it is only for upgrading and helping minority and nothing to do with majority. This is what secularism now most popularly known as political secularism used by the government to get sympathy and votes even in the situation of pandemic government is trying attract votes on the basis of communal hatred.



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SUGGESTIONS AND RECOMMENDATIONS

- Uniform Civil Code should be practiced

- No hatred between communities
- Government should help every community in emergency situations
- Government should take off their control over temples
- Every community should equally treated
- Every community should be allowed professing their religions
- And political secularism should be stopped



CONCLUSION

Secularism was introduced to remove the communal hatred and to create equality between the communities in India as India being vast country and with diversified religions there was a need of secularism and separate rights to be provided to the minority religions but separate rights should not be treated as excessive rights. The rights should not be used in that excess that it creates hatred between people of India.

And let's make India a secular country not on papers but in reality i.e. on grounds also and practice the dictionary meaning of secularism, which can create a lot of change to people, to country most importantly to us.

Concluding to this my opinion is that the people and government has to work together to remove communal hatred and to apply secularism in its actual sense because one element cannot create a change to something so we both should work together and suggests government to take such steps which are equal for all communities and make laws and implement them wisely.

First line preamble says "WE THE PEOPLE OF INDIA" so let's try to be the people of India and not the people of some community.



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