

Secularism in India: Some Constitutional Facets

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Abstract-

Secularism in India refers to the principle of separation between religion and the state. It is enshrined in the Indian Constitution, which ensures religious freedom and prohibits discrimination based on religion. India is a diverse country with people of various faiths, and secularism is a fundamental tenet to maintain harmony and equal rights for all its citizens. However, the practice of secularism in India has been a subject of debate and controversy over the years due to various socio-political factors. One prominent example is the role of religion in politics and governance, which has led to discussions and disputes in many societies. Additionally, issues related to religious freedom, cultural practices, and ethical dilemmas often give rise to debates that involve socio-religious considerations. Specific topics may vary by time and place, but these general themes tend to be recurring points of contention in the intersection of religion and society.

Key Words: Preamble, Secularism, Socialization, Federal System.

Introduction-

In recent times secularism has become one of the most stimulating, provocative and perplexed notions. It has gained a central stage in intellectual discourse. Philosophers, historians, sociologists, political scientists as well as jurists have given varied interpretations of the term. Some are of the opinion that secularism implies the peaceful co-existence of various religious groups while others take it in the context of the state's relationship with religion. However all secularists agree at one point that the state should be, in some sense, impartial towards different religions though they differ on the expression the term impartiality. For some it means equal respect for all religions whereas for others this impartiality is best served if the state disentangles itself from all religious matters i.e.no state support for religious bodies, no religious teaching in state educational institutions, no religious tests for public office or no legislative and judicial protection for any religious principles.

As it was very clear that being a multi-cultural and diverse society the concept of secularism acquires added significance in India. In the Indian context secularism represents a way of life and a sort of ethical code of conduct applicable to the society as a whole. It refers to the individual's relationship with the society in its totality. It is a system of social ethics based upon a doctrine that as far as state activities are concerned ethical standard and conduct should determine exclusively with reference to the present life and social well-being without reference to religion.

Secularism formed the basic ideology of the national movement also. The pioneers of Indian National Movement tried to develop a pattern of communal harmony and political nationalism to secure political ends irrespective of religious differences. Secularism also infused the thoughts of socio religious reformers of nineteenth century and national leaders of twentieth century. But since the national movement had to mobilize the support of all classes against foreign domination, the leaders of

different classes could not press the principle of secularism firmly for fear of losing the allegiance of religious minded and obscurantist groups. During the British rule in India the Indian society brought about tensions and strains of communal nature and weakened the social cohesion. According to Bipin Chandra, the social, economic and political vested interests deliberately encouraged or unconsciously adopted communalism because of its capacity to distort popular struggles to prevent the masses from understanding the social and economic factions responsible for their social conditions and to turn them away from their real national and socio-economic interests and mass movements around them. The leadership of the national movement lacked the political will to counter this communalism. The secular principle and faith in India, nevertheless, endured on account of the lead that Gandhi and Nehru, among others provided. Both the leaders represented two separate streams of secular thought. While Gandhi's secularism was essentially spiritual, anti-communal and pluralist, Nehru's secularism was anti-communal, jurisdictional, reformatory and protective. While Gandhi tried to face this problem in the spirit of enlightened religiosity, Nehru approached the same by following the path of scientific nationalism. The communal partition of India provided the major setback to the process of secularism. The emergence of it, different in the post partition period, was a response to a new situation created by independence and the partition of the country on communal grounds. In independent India the shocking experience of the partition and the insecurity of the minorities, the concept of secular state was considered essential but there were different options about the two interpretations of secularism. According to the first meaning of secularism, religion is not to be admitted in public life. One can have religion in one's private life i.e. within one's home or at one's place of worship. Contrary to this, the other meaning of secularism revolves around the idea of equal

respect for all religions. One could be a good secular by being equally respectful towards all religions or by being equally disrespectful towards them.

The present society is a multi religious society based on mutual respect. This feeling of mutual respect among different communities, minorities in particular, not only ensures a sense of security and belongingness but also strengthens the constitutional safeguards. Secularism thus means a bundle of guarantees in respect of the freedom of religion to individuals as well as to religious groups and in respect of cultural and educational rights.

Constitutional Provisions-

The Indian constitution is a perfect embodiment of diverse facets of secularism. There are a number of provisions pertaining to equality and liberty, freedom of religion and conscience, protection of minority rights, the cultural and educational rights that are integral part of Indian secularism.

The Preamble-

The word secular was incorporated in the Preamble of the constitution through the 42nd Amendment Act, 1976. Through this Amendment India is declared a Sovereign Democratic Republic. This democratic and republican faith of the constitution is a part of our secular adherence. A Sovereign Democratic Republic is constituted to secure justice, liberty, equality and fraternity to all its citizens. Fraternity of all citizens based on the dignity of the individual and the unity of the nation is the foundation of our secularism. Liberty of thought and expression, belief, faith and worship as well as equality of status and opportunity all are essential conditions of secularism. The Preamble in its sublime faith, thus, is imbued with the spirit and philosophy of secularism.

Provisions relating to Citizenship-

The constitutional provisions under Part II, relating to citizenship, (Article 5) exemplify secularism by basing the concept of secularism on the geographical nexus. Every person who is domiciled in the territory of India and he/she or either of his/her parents

was born in the territory of India or who has been ordinarily residing in the territory of India for not less than 5 years immediately before the commencement of the constitution is declared to be the citizen of India. It is important to remember in regard to the citizenship provisions in the constitution and the law that it was in keeping with the aim of building an integrated Indian nation and a united fraternity. All citizens irrespective of the state in which they were born have the same rights and duties all over the country without any discrimination.

Part III- There is several provisions in this chapter of the Constitution that establish a framework of secular obligation on the part of the state.

Right to Equality-

Article 14

This article of the constitution enunciates the fundamental right of every person not to be denied equality before the law or the equal protection of law within the territory of India

Article 15 (1 & 2)

Prohibition of discrimination on grounds of religion, caste, race, sex, place of birth or any of these.

Article 16 (2)

Equality of opportunity in matters relating to employment or appointment to any office under the state. It declares that no citizen can be discriminated against all declared ineligible for any employment or office under the state on grounds only of religion, race, caste, sex, descent, place of birth or residence.

Right to Liberty

Article 19 of the Constitution specially guarantees to the citizens of India 6 basic freedoms-

1. Freedom of speech and expression
2. Freedom to assemble peacefully without arms
3. Freedom to form associations or unions
4. Freedom to move freely throughout the territory of India
5. To reside and settle in any part of India

6. Freedom to practise any profession and carry on any occupation, trade or business. All these rights and freedoms are guarantees irrespective of race, creed, caste, sex and religion.

Right to religious freedom-

Article 23 (2) prohibits the state from discriminating against any citizen on grounds only of religion, race, caste or class while imposing compulsory service for purposes, for example, military service and social service.

Article 25 to 28 provides to all persons guarantees of the right to freedom of religion in all its aspects.

Article 25 lays down that all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. This right to religious freedom is, however, subject to (a) political order (b) morality (c) health.

Article 26 which flows from article 25 bestows a fundamental right upon all religious denominations and sections, thereof, to establish and maintain Institutions for religious and charitable purposes, to manage their own affairs in matters of religion, to own and acquire and administer property but the administration of property has to be according to law.

Article 27 enjoins that no person shall be compelled to pay any taxes for expenses or promotion or maintenance of any particular religion i.e. there could be no objection if the taxes were used for promotion of all religions. This is in keeping with the concept of secularism that means equal respect for all religions

Article 28 provides for the freedom from compulsion to attend any religious instruction or religious worship that may be conducted at any educational institution recognised by the state or receiving aid out of the state fund.

Cultural and Educational Rights-

Article 29 (2) guarantees to every section of the citizens residing anywhere in India and having a distinct language, script or culture, the right to conserve the same. No citizen can be denied admission to any educational

institution maintained or aided by the state on grounds only of religion, race, caste or language.

Article 30 grants to religious and linguistic minorities, the right to establish and administer educational institutions of their choice.

Freedom of Religious Instruction: The Constitution allows religious instruction in educational institutions, but it ensures that no person is compelled to participate in religious activities that go against their beliefs.

Part IV of the Constitution-

Part IV embodies the Directive Principles that are fundamental in the governing of the country and underlines the positive content of secularism as part of the state policy.

Article 28 which is the keystone and the core of the Directive Principles lays down that the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which social, economic and political justice shall inform all the Institutions of national life.

Article 39 is also geared to secular objectives and asks the state to secure the citizens' the right to an adequate means of livelihood, the distribution of ownership and control of material resources of the community to sub-serve the common good.

Although there is special provision for reservation of seats for Schedule Castes and Schedule Tribes (**Article 330 and 332**) every citizen of India who full fills the prescribed qualifications of age is qualified to fill a seat in parliament. Although **Article 84 (C)** provides for and permits parliamentary legislation prescribing other qualifications, it is inconceivable in the scheme of Indian constitution that a bar of any kind on the basis of religion can be enacted.

Further **Article 325** abolishes separate communal electorates. It lays down that there shall be one general electoral roll for every territorial constituency for election to either house of parliament or to either house of state legislature. No person is to be

declared ineligible for inclusion in the electoral roll on grounds of religion, race, caste or sex nor can anyone claim to be included in any special electoral roll for any such constituency on any such ground.

The electoral law of the land declares that electoral propaganda on the basis of religion, race, caste, community, language or appeal to religious symbols as well as the promotion of feelings of hatred among the classes of the citizens of India on grounds of religion, race, caste, community or language are deemed to be corrupt practices for the purpose of the Representation of People's Act 1951. Any direct or indirect interference with the free exercise of any electoral right is statutorily defined as under influence.

Article 44 directs the state to secure for the citizens a Uniform Civil Code throughout the territory of India that meant to promote social secularism. In 1976 Part 1A was incorporated in the constitution to delineate Citizens ' Fundamental Duties. Clause (e) of **Article 51A** declared that it shall be the duty of every citizen to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women. On the other hand Cause (f) of the same Article 51 A charged the citizens to value and preserve the rich heritage of our composite culture while clause (h) asks them to develop the scientific temper, humanism and the spirit of the inquiry and reform.

Part V and VI of the Constitution-

Part V and VI of the Constitution provide Executive and Legislature of the Union and the States, make no reservation in any public office for the adherents of a particular faith. It excludes non - citizen from any public office. Any Indian citizen belonging to any faith or walk of life is eligible to hold any public office and is eligible even to be elected as President of India.

Oath for the office of the President (under article 60) or for the Governor (under article 159) though is taken in the name of God but does not prefer or prohibit any

contestant from the office on grounds of practicing any faith or religion.

The provisions in these articles make clear that the intention of the Constitution is neither to oppose religion nor to promote rationalization of culture but only to maintain the neutrality and impartiality of the state in the matters of religion. These constitutional provisions reflect India's commitment to the principles of secularism, ensuring religious freedom, non-discrimination, and equal treatment for all citizens, regardless of their faith. The concept of secularism is one facet of the right to equality woven as the central golden thread in the fabric depicting the pattern of the scheme in our constitution.

Similarly considerations of religion, race, caste and sex are excluded in the constitution of judiciary in the country and in the appointment of public services. Equally, the parts of the constitution dealing with the Federal System in India and with finance, property, contracts, trade and commerce, services, election, language and emergency provisions are imbued with a broad secular perspective.

While the constitutional framework provides a strong basis for the separation of democracy and religion, the actual practice of democracy has revealed that the practitioners of various religions have not internalized the constitutional framework of India. According to C P Bhambhari, there are important reasons responsible for this--

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Firstly, the absolute majority of Indians are extremely religious in personal life. A secular state in a highly religious society has to keep providing that it does not intend to hurt the religious sentiments of the citizens.

Secondly, India is not only a multi religious country but its believers are also very proud of their faith in maintaining their religious identity. In this socio-cultural context, the functionaries of the secular state have to maintain equal distance from all religions and at the same time they have to harmonize inter religious social relations

Conclusion-

What is required of state in India is to follow a policy of secularism and secularisation. Among the secular values basic to a secular society are tolerance, social justice, economic welfare and equality before law. The foundation of social ethics and a philosophy of political obligation of the citizens to the state and the society is the bedrock of secularism. Rule of law is equally indispensable for a secular state and the secular society. The path to progressive secularization in India will be paved by socialization of our composite culture, by equalisation of opportunities, rationalization of religion, by spiritualization and humanization of reason. Secularism is thus part of our ongoing struggle for larger freedom and betterment of life.