

ANALYSIS OF THE CONCEPT OF SECULARISM IN INDIA

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When India is said to be a secular State, it does not mean that we reject 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 a positive religion or that the State assumes divine prerogatives.ⁱ

-Dr S Radhakrishnan

ABSTRACT

Secularism in India is among most debated topic in the recent years. Secularism in general sense mean separation of religion from the state. The Concept of secularism in India is very much different from west or its general usage in English language, one of the distinctive features of secularism in India is that it does not draw a clear wall of separation between church and religion but it also does not promote any religion.

Interestingly the world secularism is introduced to the constitution by 42nd Constitutional Amendment but the Framers of the constitution were crystal clear about the secular nature of the state. The constitutional assembly debates give a clear account of general agreement between the member about non establishment of any particular religion but also respecting religious sentiment of people. Thus, paper tries to investigate the different aspects of secularism in India and what makes India secular.

This paper tries to understand the various meanings of secularism. The paper analyzes how the meaning of secularism has changed in different times in Indian history starting from Asoka to recent decisions of Supreme Court. Against a popular belief, secularism is not a foreign concept to India, rather it has always remained at the core of Indian culture, although it has been developed and influenced by the Western philosophy of secularism. This paper intends to focus

on different definitions and perspective of secularism and tries to understand the concept of secularism and its relevance of the modern period.

Keywords: Secularism, Separation, Philosophy

INTRODUCTION

The secularism is one of the most cardinal parts of Indian constitution and democracy. The term secularism is used differently in different context especially ‘secularism’ in Indian constitutional context denotes very different meaning than its usual meaning in English Language. Interestingly secularism term was added to the constitution in 42nd constitution amendment and before that there was no specific mention in the constitution however the spirit of secularism has inspired the Indian freedom struggle and that spirit has been reflected in draft of constitution and constitutional assembly debates. A close reading of proceedings of constitutional assembly shows that framers of the constitution were very much concerned about the scope of the secularism in India.

Laws must be seen as ‘mirror of society’ⁱⁱ and reflection of society’s history customs and morals and hence Indian secularism is more inspired with the morals of Indian freedom struggle and less with the fantasizing principles of west. Religion has always remained in core of Indian society and it cannot be separated from it unlike western democracies where the wealth and power has remained fundamental objectives of the society whereas Indian society has given more significance to spiritual development over wealth and power. Hence Indian secularism must be seen in that context instead of superficially imposing western principles upon India, we must investigate and think according to our needs.

Rajeev Bhargava has wonderfully remarked that Indian secularism forms ‘principled distance’ which does not establish any religion but also does not make clear separation between religion and stateⁱⁱⁱ. Seval Yildirim has described “Indian secularism” as “a discourse to reconstruct the political space so that religion and the state can co-exist.”^{iv}

The present paper tries to examine the meaning of secularism at different times as the paper is distributed under three headings on how secularism developed in India and then how

secularism has been seen in constituent assembly and how the courts have finally interpreted this concept of secularism.

ORIGIN OF SECULARISM IN INDIA

Religion and spirituality has always remained in the core of Indian society. Swami Vivekananda has wonderfully argued that in west whole goal is 'Individual Independence' where as in India the prime goal has always remained 'Moksha' which mean renunciation.^v This is probably reason behind rise of several religions in India as the religion and spiritual development has always remained prime concern for Indian society. Perhaps the reason behind the rise of many religions in India is because religion and spiritual development have always been a major concern for Indian society.

But even more strangely India has always provided every religion and spiritual idea to propagate freely there is no instance of religious war between Indian religions^{vi}. Indian religion also does not support the Idea that one will have to convert his religion to get renunciation instead they have suggested that there can be many ways of liberation or renunciation. Indian philosophy system has always adopted many different viewpoints over same things and these view points are 'mutually complementary not contradictory'^{vii}

The traces of secularism can be traced throughout the Indian History. Ashoka and Harshahad accepted and patronized various religions about 2200 years ago.^{viii} Elora caves are one such example of co-existence of different religion and philosophy. The Indic religions have co-existed for long without any conflict. Dr. Radhakrishnan has given an instance in his book where Buddha restricts his followers from engaging in religious conflicts.^{ix} Religious fundamentalism emerged in India with the advent of Islam. But looking closely at the history, it seems that this religious intolerance is not for religious reasons but for political reasons.

After the Muslim invasion gradually the ruling rulers feel the need for tolerance in the government to accommodate the majority Hindu community. Akbar's policies were a great example of this, for the first time Akbar attempted to create a secular state, in which he decided to give equal importance to every religious community.^x Akbar's policy on religion

were based on four pillars called, amity, equity kindness and tolerance.^{xi} Dr Shankar Dayal Sharma had detailed analysis of Akbar's tolerance where he highlighted that Dine-illahi was a result of synthesis of different religions.^{xii}

The early presence of Abrahamic religion i.e. Christianity Islam and Zoroastrianism in India and later their establishment in the Indian subcontinent was not due to any military conquest. This religion got a place there due to the spirit and feeling of co-existence displayed by the local authorities.^{xiii}

SECULARISM IN CONSTITUENT ASSEMBLY

Thus the Indian system has remained pluralistic from its beginning which is based on the principle of universal tolerance and acceptance.^{xiv} Thus the Indian society accepted the principle of free propagation of ideas based on different philosophy or 'darshan' however this propagation of religion was not drawn by the money or power but was based on the philosophy or different ideas of religion. This lead to the culture of free propagation of religion in the Indian society which was later recognized by the constituent assembly. Indian constitution is one of the few constitutions which recognizes right to free propagation of religion. Similar contentions about interpretation of propagation of religion had been discussed in the debate of constituent assembly on 6th December where some of the members opposed the constitutional safeguard to propagation of religion on which Pt. Laxmikant Maitra answered crucially, where he pointed out that the great Indian culture highly values that we should be able to promote whatever we feel honestly and believe in.^{xv} He also puts emphasis on the interpretation of word 'propagation' where he highlighted that propagation does not include conversion by swords arms or coercion.^{xvi} Diversity of India has certainly given rise to the problems and conflict which was solved by the universal accommodation and tolerance, this approach has been taken by Sufi saints and later by eminent leaders like Mahatma Gandhi and Jawaharlal Nehru.^{xvii}

It is also prominent here to mention that express motion was moved in the constituent assembly to include word 'secular' and 'socialist' which was rejected by the constituent assembly even when most of the members were committed towards the secular nature of the state

hence we must remember that the secular nature of the Indian state does not come from the preamble but from the collective reading of the constitution. In 1945 Nehru has written that India will not associate it 'directly with any religious faith'.^{xviii} In 1946 Gandhi ji has expressed similar opinion where he wrote that he may die for his religion but it's his personal affair and state has nothing to do with that the duty of state is to look 'secular welfare' of its people.^{xix}

A reading of the December 15 constituent assembly debate^{xx} also shows that Professor KT Shah had proposed an amendment, where he said that the words secular and socialist should be added to Article 1 of the Constitution.^{xxi} I think HV Kamth has spoken minds of most of the member in his words that India must neither be a god-less state, nor an irreligious nor an anti-religious state".^{xxii}

Dr Ambedkar has made very significant observation about Concept of secularism according to him Indian secularism doesn't denies religious sentiment of peoples the only limitation which constitution recognizes is that the state will not able impose any religion to the its citizen.^{xxiii}

The basic idea of secularism is to distinguish the state from the religion and this fundamental concept is similar in almost all the secular states but Indian secularism does not throw out the concept of religion rather it pays respect towards it but it does restrict itself from influence of any particular religion. Western secularism is designed for single religion society and there is a serious doubt in its success in multi religion society what Rajeev Bhargava has called "threatening to throw western secularism into turmoil".^{xxiv}

INTERPRETATION THROUGH COURTS

The Supreme Court expressed its view first time in the case of Sardar Taheruiddin Syedna Saheb v. State of Bombay^{xxv}, where court had opined that religious toleration is fundamental principle of the constitution which has been embodied in Article 25 and 26. In Keshvananda Bharati Case^{xxvi}, Supreme Court expressed the view that secularism is a part of basic structure of the constitution.

However it was in Ahmedabad St. Xaviers College Society v. State of Gujarat^{xxvii}, that Supreme Court tried to investigate into the Indian model of secularism where the Supreme Court expressed that Indian secularism does not draw a clear wall between the church and state. In Indian context secularism only mean ‘live and let live’.^{xxviii}

In ZiyauddinBurhanuddin Bukhari v. Brijmohan Ram Das Mehra^{xxix}, the Supreme Court illuminates the role of state in secularism. The role of state in secularism must be neutral and impartial and it must extend benefits to the all caste creed. It is the duty of States through their laws to ensure that conditions are not imposed merely on the basis of someone’s caste or religion.

In Indira Sawhney case^{xxx}, Supreme Court extends its ambit of secularism in equality before religion to equality before caste. Kuldeep, J. ruled that Secularism propose a united and casteless society. He had gone further stating that ‘Secularism envisages a united and casteless society.’^{xxxi}

In landmark judgement of SR Bomai v. Union of India^{xxxii}, court expressly declared that secularism is a part of basic structure of the constitution. However there seems some ambiguity in the definition of secularism. Ahmadi, J. stated that secularism is based on the principle of accommodation and tolerance^{xxxiii} whereas Jeevan Reddy and Agrawal, JJ., in their judgment went further stating that Indian secularism is in agreement with the first amendment of U.S constitution^{xxxiv} which shows that there is certain ambiguity in exact definition of secularism.

However, in Dr. M Ismail Faruqi case^{xxxv}, there seems some shift from the older view previously expressed in SR Bomai case. Verma, J. (speaking for Venkatachaliah, C.J. and Ray, J.) the supreme court expressed the view that Indian secularism is based on the principle of ‘sarva dharma sambhava’.^{xxxvi} The court seems to have again rejected the concept of a clear separation of church and state that was confirmed by the SR Bomai case and went back with the doctrine of secularism with tolerance.^{xxxvii} This view in Ayodhya case seems in agreement with its older view in Ex-communication case and Nain Sukh Das v. State of U.P.^{xxxviii} However the dissenting opinion of Bharucha, J. seems more consistent with SR Bomai case where he advocated absolute positive and active secularism.^{xxxix}

The Hindutva judgment^{xl} was again a change from the previous judicial decisions of the court. Where the court has gone further equating hindutva and Hinduism which ‘depicts the way of life of the Indian people’.^{xli} Hindutva judgments may be criticized for the fact that court failed to consider the long essays written by VD Savarkar where he proposes hindutva as political ideology. This must be understood clearly that constitution or law of the land cannot be interpreted in light of any political ideology or it must not be influenced by any political ideology.

However, N.P. Singh and Venkataswami, JJ. in Mohd. Aslam v. Union of India^{xlii} clarified that there is no contradiction between Hindutva judgement and S.R Bomai.^{xliii}

There is no consensus in various decisions; therefore a unanimous interpretation of secularism is critically needed. In Abhiram Singh v. C.D. Conmachen^{xliv}, court recommended the question to larger bench for consideration. In Valsamma Paul (Mrs) v. Cochin University^{xlv}, restored to its earlier view of equating secularism with tolerance while stressing on the need of ‘integrated India/Bharat’

Again Bansi Lal Case^{xlvi} seems in agreement with the S.R Bomai case where The court ruled that the state could regulate personal laws citing threats to the unity and integrity of the nation^{xlvii} whereas in A.S. Narayana Deekshitulu v. State of A.P^{xlviii}, court commented that word ‘Dharma’ in Hinduism denotes upholding, supporting, nourishing that which upholds, nourishes or supports the stability of the society, maintaining social order and general well being and progress of mankind.^{xlix}

In conclusion there is ambiguity in interpretation of concept but the court seems to have been restored to its earlier view which was equating secularism with tolerance. It can be deduced from most of the cases that court has rejected the view of clear separation of concept of Church and State and concept of secularism in India is mostly based upon the concept of ‘Sarva dharma Sambhava’. The concept of active and absolute secularism even though accepted in some cases has been rejected in most of the cases.

CONCLUSION

Indian secularism is a subject of constant debate in the public sphere, no one can define it in absolute terms nor should it be defined in full. The concept of secularism is so widespread in India that it accepts and encompasses different philosophies and ideologies and is not defensible in the light of any single ideology or philosophy. However, if the debate of constituent assembly and the views of various philosophers are taken into consideration, it can be concluded that Indian secularism is definitely different from secularism of the West due to its multi-religious society.

Secularism is largely interpreted as tolerance between different religions which is a deep rooted concept in Indian society. Indian secularism doesn't deny religious sentiment of peoples, the only thing which Indian secularism provides is that the state will not be able to impose any religion to the citizen.

ENDNOTES

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