

## CONCEPT OF SECULARISM IN RELIGIOUS INDIA: A STUDY

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**ABSTRACT:** *The purpose of this research paper is to analyze and examine the concept and elements of secularism. India has diverse religions and cultures. There are various religions namely Hinduism, Islam, Christianity, Jainism, Sikhism and Buddhism. India is termed as the religious country but to avoid any sort of problem between the religious community the concept of secularism was adopted. The concept of secularism plays a key role in fighting all sort of religious dominations in the state. Since the British rule there has been number of communal riots and violent outburst between Hindus and Muslims so the government of India has been taking various steps to harmonize this serious issue in the state. The word 'secular' was added in the preamble in the year 1976 in Indian Constitution. Secularism is in its elements in India as the state does not have its own official religion but treats all the religion equally. The concept of secularism in India is derived from the western concept of secularism but with a difference i.e. the state can interfere in the religious matters if needed, so as to protect the rights of the citizens of the state. In western concept there is a total non-interference policy of the state in religious matters. This paper puts the light on problems and challenges with secularism in present scenario and the questions related to the need of enacting the word 'secular' in the preamble 27years after the adoption of Indian constitution.*

**Key Words:** *Secularism, religion, preamble, India*

### 1.Introduction

India's religious diversity is widely famous all over the world. The reason behind this is that, India is the birth place of different religions, which includes Hinduism, Buddhism, Islam, Christianity, Sikhism and Jainism. Religion holds importance in the country like India as it is the most indispensable part of our community and practices. India is known as "The land of spirituality and philosophy" among all over the world. Secularism ensures freedom of both believer and non-believer. It protects the traditional and moral value of people and their religion. Secularism is important to create society where people with diverse religion can live peacefully. The concept of secularism ensures democracy and fairness among all the religious groups.

All the citizens in India irrespective of their religion has right to access public services like - hospitals, schools, police service, fire service, transport facilities etc.. No-one can be denied the access of these services on the basis of their religious beliefs and practices. State cannot impose tax on any particular religious groups and does not encourage any religious teachings in educational institutions. State also provides the right of conversion to its citizens so that they can convert into any religion of their choice. Personal laws like Hindu law and mohammedan law protect the people belonging to Hindu or Muslim community<sup>1</sup>.

### 1.1Religions in India

India is the land of diversification. In India there are various cultures and languages as it is the country of mixed cultures and groups. In India there are various religions namely:-

1.1.2 Hindu - They acquire share of almost 80% of country population. Hindus are found in almost every state of the Country. The followers of Hindu religion believe in Karma, Dharma, Salvation, Rebirth etc. Hinduism has different sects i.e. Satnami, Aryasamaj, Brahmosamaj, Kabirpanth etc.

1.1.3 Muslim- There are more than 40 countries with Muslim population still India is the third largest country in Muslim population, other two are Indonesia and Pakistan. Muslims also acquire large part in india. 14 % of population of Muslims is found in Jammu and Kashmir. Muslims are not idol worshipper. They are also termed as kitabia as they follow Quran<sup>2</sup>.

<sup>1</sup>[www.apjor.com](http://www.apjor.com) Asia Pacific journal of research (vol. 11, issue XXIV, February 15) page no.-123

<sup>2</sup>[www.indiacelebrating.com](http://www.indiacelebrating.com) essay on secularism. Visited on 15<sup>th</sup> march, 2019

1.1.4 Christians-They make around 4-5% of total populations of India. They are mostly found in state like Goa, Kerala, Nagaland, Manipur etc. Roman Catholics are one of the largest communities followed by Christians. They follow bible and believe in lord Christ.

1.1.5 Sikhs – They contribute to 1-2% of total population of India. They are found mostly in states like Punjab, Haryana, Delhi etc.

1.1.6 Buddhism – they are found in Bhutan, Sikkim, Himachal Pradesh etc. They follow the teachings of Gautam Budh.

1.1.7 Jainism – their practices are similar to Hindu but it has a separate community. They follow the practices of Mahavir Jain.

So it becomes the duty of state to combat all inter-religious dominations and conflicts. The step to fight all the religious conflicts was taken by India in the year 1976 when the word 'secular' was added to preamble by 42<sup>nd</sup> amendment in Indian constitution. The preamble reads –“ sovereign , socialist, secular democratic republic”<sup>3</sup>

## 2. Meaning of secularism :-

When we say India is a secular nation ,we mean that India does not have its own official religion but it treats all the religions equally. Secularism means treatment of all religions equally by the state. The word 'secular' was enacted by Indian constitution in the year 1976. “The state is not connected with spiritual and religious matter”<sup>4</sup>. The concept of secularism was adopted from Western countries but with its marked differences.

Various causes of secularization in India can be –

Urbanization – due to urbanization people of different cultures and religions reside together in same localities when has led to secularization among citizens of India.

Growth and development in transport and communication sector – with the growth and development in these sectors people of different religions are inter-mixed with each other. They get connected to each other through social media platforms and access the public transport.

Education imparted to students in institutions – education plays an important role in harmonizing people of different religious groups. Institutions welcome all religious groups equally.

Legislation – various laws has been passed to protect the rights of religious groups. Special marriage Act, 1872 was passed with intent to solemnize the marriage between people belonging to different religious community. This Act aims at making the marriage between people of different religious community a valid marriage in the eyes of law. Hindu marriage Act, 1955 , Hindu succession Act , 1956 has been passed to secularize people belonging to Hindu community.

Constitution also provides protection under article 27-30 which says the citizens of India has right to freedom of religion.

Western culture- it is also one of the factors in secularizing citizens of India. The principles of Indian secularism has been derived from the concept of western secularism. In order to modernize the state has to practice secularism and it is also the duty of citizens to comply with the provisions made by the state.

### 2.1 Objectives of secularism :-

Secularism aims at keeping all the religion in peace and fighting the conflicts to make society peaceful. The most important objectives of secularism are -

2.1.1 To ensure one religious community doesn't dominate other religions community- there had been various conflicts among the religious communities in India. These conflicts are often related with the status in society. Secularism plays an important role as according to this concept the state has to treat all the religions equally and ensure that one religious community does not suppress the other religious community.

2.1.2 To combat all inter religious conflicts to make society peaceful and harmonious- secularism has played a vital role in fighting all inter-religious conflicts. Citizens must be secular so that they can continue their beliefs and practices throughout their lives without any hindrance from the law<sup>5</sup>.

## 3. Freedom of religion under Indian Constitution:-

The constitution of India guarantees to its citizens “the freedom of conscience and free profession, practice and propagation of religion”<sup>6</sup>

Other articles include-

<sup>3</sup> Constitutional law of India in English 51th edition by Dr. JN. Pandey (central law agency)

<sup>4</sup> The definition in Oxford dictionary <https://Oxforddictionaries.com>

<sup>5</sup> [www.legalservicesindia.com](http://www.legalservicesindia.com) by bhartialka

<sup>6</sup> Article 25 of Indian constitution.

Article 14 talks about 'equality before law and equal protection of law'. All the people are treated equal by law and all the laws are treated equally.

Article 15 and 16 prohibits any discrimination on the ground of religion, caste, creed, sex etc.

Article 19 to 21 guarantees fundamental freedoms to its citizens.

Article 25 to 28 gives right to profess and propagate any religion

Article 26<sup>7</sup> of Indian constitution

Article 44 of Indian constitution provides for fundamental duty of the state to enact uniform civil laws treating all the citizens equally<sup>8</sup>.

Mohd. Ahmed Khan v. Shah Bano Begum<sup>9</sup>

This case made history in India. This case was related to rights of Muslim women.

Facts- Mohd. Ahmed divorced Shah Bano Begum on the year 1978 and refused to provide maintenance to her and her children which was Rs. 200. In the year 1978 Bano filed a plea in local court against Mohd. Ahmed asking the maintenance for herself and her children. This plea was filed u/s 125 of criminal procedure code. In the year 1978 Mohd. Ahmed gave her irrevocable talaq (divorce) and saying she is no more his wife under Mohammedan law and he is not bound to pay the maintenance. In the year 1979 local court gave order against Khan to provide Rs. 25 maintenance per month to Bano. In the year 1980 Bano filed a plea in HC for revision of maintenance. The HC of MP gives order in favor of Bano with a revised maintenance of Rs. 179.20.

In the year 1981 the 2 judges bench refer the case to a large bench of judges. In the year 1985 the landmark judgement was passed by the SC and upheld the order of HC. This judgement was diluted by Muslim Women (Protection of Rights on Divorce) Act. This Act allowed maintenance to a Muslim woman only during the period of iddat or till 90 days from the date of divorce<sup>10</sup>.

Kesavananda Bharati v. State of Kerala<sup>11</sup>

The story started from Golaknath v. State of Punjab case, 1967

The SC held that "parliament cannot take away or abridge and amend any of the fundamental right even cannot touch, because there are sacrosanct in nature". After this judgement parliament passed 24 and 25 amendment in the constitution and held that "we, the parliament can amend anything in the constitution and judiciary has no power to review".

In Kesavananda Bharati case the petitioner challenged these amendments under article 26<sup>12</sup> of Indian constitution. The 13 judge bench (largest judges bench) heard the case and gave the landmark judgement "verdict of Golaknath v. State of Punjab case was not correct and government of India can amend the fundamental rights by the virtue of article 13(4) and article 368(3) and the constitution of article 368 but without changing the basic structure and nature of constitution".

The court held further:

"that preamble is the integral part of our Constitution and it is amendable but not justifiable in administration of justice".

#### 4. Debates on religious secularism:-

There had been various debates on secularism. It had been a propaganda for decades. The issues have been arising in past few years due to political interference in secularism. All political leaders have different perspective on secularism. The constitution was adopted on 26 November 1949 by the constituent assembly of India. The word secular in preamble was enacted after 27 years of adoption on Indian constitution.

Pakistan was divided on the basis of religion i.e. Islam. India's foundation was never led on the basis of religion. Few questions arose related to this amendment :-

Why the word 'secular' was enacted after 27 years during the time of emergency?

<sup>7</sup> Gives every religious group a right to establish and maintain institutions for religious and charitable purposes, manage its affairs, properties as per law. This guarantee is available only to citizens and not aliens.

<sup>8</sup> The constitution of India bare act as amended by - The constitution (one hundred amendment) Act, 2015.

<sup>9</sup> AIR 1985 SC

<sup>10</sup> [www.thehindu.com](http://www.thehindu.com) (August 10, 2003)

<sup>11</sup> AIR 1973 SC

<sup>12</sup> Gives every religious group a right to establish and maintain institutions for religious and charitable purposes, manage its affairs, properties as per law. This guarantee is available only to citizens of India and not to aliens.

What was the need to adopt the word 'secular' in the year 1976?

What was the idea behind enacting the word 'secular' in preamble?

To combat the loopholes in Indian society the need to enact 'secular' arose. India has over 134cr population and various diverse cultures and religions so to maintain peace and harmony among all the religions and the word 'secular' was added to preamble

The word 'secular' was added so that it gives a clear picture in the minds of people about religious freedom so that they maintain the code and conduct of the state and does not violate laws in the name of religion.

The word secular was added during the time of emergency imposed by the then PM Indira Gandhi by 42<sup>nd</sup> amendment and all most all the part of constitution was changed with this amendment. The constitutional amendment act was also known as mini-constitution.

Nehru and the chairman of the drafting committee strongly opposed the idea of adding the word secularism in preamble. The 1<sup>st</sup> prime minister of the country in a debate in constituent assembly said, "we have only done something which every country does, except for a few misguided and backward countries".

In a recent debate in 2017<sup>13</sup>, A.K. Antulay, Rajya Sabha member of Congress party participated and answered the question that why the constitution makers had not included the word 'secular' in original constitution. He said, "maybe, the conditions and circumstances, then prevailing, were not favorable. The split in the Congress in the wake of partition and immediately after independence the country could not afford to perhaps the newly won independence would have been lost. Pandit Nehru himself a personification of secularism and himself of specialist conviction must have sensed that.....split within the Congress over socialist and secular lines, immediately after partition, immediately after independence, would have meant the loss of independence, perhaps"<sup>14</sup>.

### 5.Is India a secular nation?

India is one of the largest democracies in the world. The government of India and the parliament has made various provisions to ensure that any kind of discrimination does not affect the rights of its citizens. To combat the inter-religious domination the word 'secular' was added to the preamble by 42<sup>nd</sup> amendment in the constitution in the year 1976. So the answer to this question can be- yes, India is a secular nation as it does not discriminate its citizens on the basis of religion. India's population includes people of diverse religions. The constitution of India does not discriminate between naturalized citizen and citizen by birth.

#### 5.1 failure of secularism in India:-

Shah Bano's case was the decline to the secularism in India. Where on the one hand SC gave the judgement in favor of Bano on the other hand Muslim community especially the ulma opposed the judgement. Government then passed the bill ensuring that Muslim men need not pay the maintenance after the period of iddat to Muslim women.

### 6.Challenges to secularism in present scenario :-

Hindu constitute to largest majority whereas Muslims constitute to largest minority. The Britishers took advantage of the situation and followed 'divide and rule policy' which resulted in huge difference among both religion. Even in the present scenario the riots between Hindu and Muslim religion persist.

Another issue with secularism is that the political party interpret the meaning of the word 'secular' according to their minds. They target particular religions to contest the elections. "they even take religion of the candidate into consideration".

### 7.Comaprison with western secularism:-

Indian concept of secularism is derived by Western concept of secularism but with its marked difference. In western secularism state does not interfere in any religious work or conflict. State can not make any policy for religious matters. In Indian secularism, state can interfere in any religious matter so as to protect the rights of its citizens.

Western idea of secularism rests upon liberal idea where people have different practices and values. State cannot make any religious policy and does not provide protection to any person whose religion is criticized by any person.

<sup>13</sup>[www.frontline.in](http://www.frontline.in) (print edition 21<sup>st</sup> July ,2017)

<sup>14</sup> Dr A.R. Antulay in the Hindu newspaper interview on 21<sup>st</sup> July 2017.

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Indian secularism relies heavily on Gandhi's idea of 'sarv-dharm-sambhava'<sup>15</sup>, which means that state shall treat all the religions equally and can even make policies for any religious community if needed, so as to protect the rights of its citizens.

Western secularism strictly implies on separation of state and church. The church and state has separate jurisdiction. Neither the state can interfere in the matters of religious communities nor its citizens can interfere in the working of the state<sup>16</sup>.

**8.Conclusion:-**

Secularism is the only way to harmonize relations between all the religions. Every concept has the other side of the coin. It is not only the duty of the state but also the duty of citizens to stand by the declaration of word 'secular' in the preamble. Educational institution have to take the initiative to secularize the students of the country so that they can evolve few ideas to combat religious dominations and make the country a welfare state. The concept has to be imparted in the minds of people properly so that they can abide by the provisions made by the state with respect to keeping harmony and fighting the religious conflicts among various religious communities.

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<sup>15</sup>[www.quora.com](http://www.quora.com) visited date- 24<sup>th</sup> March , 2019

<sup>16</sup>[www.dnaindia.com](http://www.dnaindia.com) August 22, 2017 visited date – 24<sup>th</sup> March, 2019