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INDIA - A SECULAR HUMANISM OR A POLITICAL SECULARISM?

R. ARUN KUMAR*

ABSTRACT:

The essence of Secularism under the Constitution of India, 1950, whether impliedly before the emergency or expressly after the emergency, had a greater impact on the nation-building process. As we glance through the timeline from the source of borrowing of this ideology, following the time when the Constituent Assembly 1946 refused to insert expressly the same considering the infancy of India, later under the head of the same political party infused the term Secular in the Preamble of our Constitution¹ and till date crossing many riots, protest, and other inhumane events, there has arisen a demand to untie the real purpose of secularism for democratic India in modern terms. It's a dynamic concept so it tends to vary from one nation to another and till now the definition of secular has not been given under any Act of Parliament besides the Scholarly views and the judicial interpretations. The three organs of the Indian Government though consider secularism as an important ideology for their betterment, yet fail to implement it as a mandatory process among the subjects of our diverse country. In this paper, the author would like to divide the timeline into three – the European history of Secularism, the period from 1945-1976, and the post 42nd Constitutional amendment period. The solution to this question can be derived from anglicizing the intentions of Europeans, our Legislative Assembly 1946 and 1976, the Executives and the Judiciary. Apart from these, the role of political parties in using it as an instrument in their propaganda also plays a vital role in picturing the image of secularism directly among the people. Reference has been made to internal disturbance which was a greater threat to secular India which includes the Amritsar Attack, Gujarat Train Blast, etc. Besides these open conflicts, it is also important to look into the judicial interpretation giving judgments that are seen flexible towards the politics and dynamic society dealing with the gender, citizenship, place of worship in connection to secularism. This

* The author is currently pursuing L. L. M. Degree course under the Department of Labour and Administrative Law in Chennai Govt. Law College, Pattaraiperumpudhur, Chennai and has graduated in B.A.B.L (Hons) degree course in School of Excellence in Law affiliated to Tamil Nadu Dr. Ambedkar Law University, Chennai.

E-mail id:arunkumarravikumar1997@gmail.com, Contact: 91+9791716883

¹Inserted by the Constitutional (Forty-second) Amendment Act, 1976, w.e.f. 3-1-1977.

paper also tries to deal with the futuristic impact of secularism. This is a Doctrinal Research and the Materials collected are secondary data. The following are the issues to be dealt with in this article:

- *To understand the Philosophical view of Secularism*
- *To compare the concept with other Constitutions*
- *To determine whether it is Secularism or Secularisation under the Constitution of India (Ideology vs. Process).*
- *To find whether the concept is based on the State's Neutrality or Political Flexibility.*

INTRODUCTION:

The term secular has always been a conflicting concept around the globe between the religious groups and the State, and the interpretation had been different for diverse cultures across different countries. India is no exception to that, as a multi-religious country, it has always been important for the makers of the Constitution to concentrate on the role of the State over the religious conduct without affecting the personal sentiments as well as the unity of India. The Constitutional Drafters were delicate and clever in dealing with this term for our democratic country. Though, they had an idea of Secular India as under Arts. 25 and 26, etc., the drafters were under a dilemma whether the express insertion was required immediately after the partition of India. Later in 1976, the term was included in the Preamble of the Constitution of India. The term, Secular, has undergone a variety of interpretations starting from the European countries, where it originated, by theocratic countries, by democratic one, and even in the Indian context, the concept has been interpreted in different ways with time since Independence till now. There were many incidents which depicted the significance of secularism such as the Partition of East Pakistan, National Emergency, followed by the 42nd Constitutional Amendment, and various riots including the 2002 Gujarat incident, the 1992 Demolition, Amritsar temple attack, etc. Especially in the 21st century, there have been many instances where the state interfered in the religious rights and sentiments. The views that are common in interpreting the term *Secular State* are anti-religious state, irreligious state, no religion-state, or state respecting all religions. Before moving into the concept of Secularism it is necessary to know what religion means. Following are some definitions;--

According to **Merriam Webster dictionary**, "Religion as an organized system of faith and worship, a personal set of religious belief and practice, a cause, principle or belief held to with faith and

order.”²**Swami Vivekananda** quoted that, “it is based on belief and faith, and in mostly consist only of different sects of theories, that is the reason why we find all religions quarrelling with each other”³

In this paper, the author would like to cover from the origin of the term secularism, Indian usage and philosophy, how it has been interpreted, what are the threats to secularism in India, and also the future of Secularism?

REVIEW OF LITERATURE:

Since the topic taken is more of a philosophical kind rather than a legal one, the paper is mostly based on historical, philosophical, religious books. The author has made this paper based on the Doctrinal Research giving importance to secondary sources. For the Part dealing with European Countries, the author has referred the book *A Short History of Secularism*, written by *Graeme Smith*, who has taken the readers to the past, dealing not only with religious aspects but also the politicization and even the world country's response towards European changes that occurred the 16th century. For the Indian scenario, the credit goes to local Authors like *M. P. Jain's Indian Constitutional Laws*, *S.K. Chaube's Making and Working of the Indian Constitution*. Their works are easy to understand and help us flawlessly to connect and incorporate their views in the paper. They have helped to cover over topics like the evolution of the concept, historical aspects, a political drama which prevailed between the 1940s and 1970s, and many more. For a comparative analysis of the concept, books like *Preamble of the Constitution* by *Aparajita Baruah*, *Select Constitutions* by *Anup Chand Kapur* lead a great hand to clearly understand the other countries' Constitution with special focus on their Preambles which lead to the knowledge on the nature, police system and the development phases of those respective countries. The core part of the topic is Secular Humanism for which the author referred to the book *What is Secular Humanism?*, an excellent work by *Paul Kurtz* dealing with the Humanitarian form of secularism which prevailed and which should prevail across the globe. For modern trends, a glance was made on *Hinduism and Secularism after Ayodhya*, edited by *Arvind Sharma* and *Politics and Ethics of the Indian Constitution*, edited by *Rajeev Bhargava*. And finally, as special mentions, *The Future of Secularism* by *T. N. Srinivasan* and *Confessions of a Secular Fundamentalist* by *Mani Shankar Aiyar* was very useful not only for this paper but also guided to know about the flow of world politics, on how the concepts evolve, revolve around the globe, on how they adapt to the surrounding and on how they change the surroundings to their adaptation. Apart

²See, Pandey J.N, *Constitutional Law of India*, CENTRAL LAW AGENCY, Allahabad.

³See, “*The complete words of Vivekananda*”, p.127

from these, the author has also referred various blogs, online articles and for historic events, reference has been made to Wikipedia and History.com.

EUROPEAN SCENARIO:

The Concept first evolved in the European countries, especially among the Christian-centric countries. There were conflicts between the religious institutions and the State. The people were driven by the religious institution and the state was interfered with by them, thereby controlling the people indirectly. To reduce the influence and the power of such institutions, the European states came up with the concept of Secularisation which, for them, defined as **the wall of separation between the State and the Church**, i.e., the religion. It means that the state would bother about no religion but if there is any threat to the welfare of the state, it would try to suppress the religion.

*“Secularism, the theory where governments ought to have no religious connection, nor indeed have anything to interfere with areas of religious ritual or belief, is manifestly a Western interruption, specifically a product of the Protestant Reformation and the Enlightenment”.*⁴

-Ian Copland

The reasons for the decline in Christianity in European Countries are:

1. Changing Identity: The people following Christianity had intra-disputes in having a definite identity for their religion. This leads to diverse views and conflicts within themselves.
2. Intellectual cultural events: The raise in intellectuals has suppressed the spread of Christianity and intruded common sense in the minds of people thereby directing the people towards the development of the nation through non-religious paths.
3. Scientific developments.
4. 20th century – war and poverty.

The reasons for the spread of secularism are:

⁴Ian Copland, *Jawaharlal Nehru of India*, 1889-1964.

1. The church has come to an extent that it was used occasionally like during birth, death, marriage, etc which lead to reduced figures approaching the holy place.

2. The concept of secularism was brought into the public forum, it was discussed freely because it was sponsored by the state and the religion has confined to a private opinion.

3. Comments on religion and the superstitious administration were given not only by the people, jurists, and scholars but also by the religious groups of Islam and Christians.

4. The Astronomy's Copernican revolution and Darwin evolution theory have also made an impact on the spread of secularism.

The decline in Christianity and enhancement in Secularisation was considered as a new form of Christianity by the followers themselves. Around 1648, the transfer of Ecclesiastical (relating to the Christian Church or its clergy) property to Civil or State ownership and the church land came under the control of the state. On coming to the literal meaning of secularism the way it was used in Europe is that, State's exclusion or rejection or indifference of religion and religious consideration. A British reformer **George Jacob Holyoake**, in 1851 was the first one in history to coin the term 'secular', stating that "a wall of separation between the Church and the State". A secular state must consist of three components:

- i. There must be separation between the State and the Religion.
- ii. Freedom of Conscience, practice any religion of their choice.
- iii. There should be no discrimination or preference by the state in any form in favour of or against any religion.⁵

With the development of secularism, the scope of the same has also widened which has led to secularism in different forms such as Structural Secularism, Ethical Secularism, Legal Secularism, State-sponsored Secularism, and Militant Secularism.

APPLICABILITY IN INDIA:

⁵Granville Austin, *Working a Democratic Constitution*, OXFORD UNIVERSITY PRESS, p.7 (1999).

*I do not expect India of my dream to develop one religion, i.e., to be wholly Hindu, or wholly Musalman, or wholly Christian, but I want it to be wholly tolerant, with its religious working side by side with one another.*⁶

On moving to the Indian scenario, the Indian National Congress (hereinafter referred to as INC) was formed in 1885 was always depicted as a secular one in respecting all religions and gathered them to protest against the British. The Constitutional Assembly was in favour of the idea of building a Secular India supported by M.K. Gandhi, J. Nehru, Md. Abdul Kalam Azad and many more. K. T. Shah demanded before the Constituent Assembly to include the term 'Secular' in our Constitution and proposed Art.1 as "India shall be a Secular, Fraternity, and Socialist Union of States".⁷

But the Chairman of the Constituent Assembly, though had the same image of secular India, dissented in the opinion of inserting an express notion in the Constitution as it was too early for India, which has not yet recovered from partition between Hindus and Islam, to deal with such a disputed concept. An ample amount of time was spent on this issue and many arguments were supporting and opposing the inclusion of the term Secular inside the Constituent Assembly. Finally, the term was excluded stating the following reasons;

1. The applicability of the concept in the Indian context was not clear because the situation in India and that of Europe was not alike.
2. Though drafters thought that the essence of secular India must be achieved, then in what form the secularisation must be implemented was a Question.
3. Can religion be divorced completely from people? If so, remove all the freedoms relating to religion in the Constitution.
4. If these freedoms are removed, would the Hindu majority State be tolerant towards the Minorities?
5. Can the novice India survive the execution of the Uniform Civil Code?⁸

These questions were unanswered by the members of the Assembly, so the idea of inserting the term was dropped. Only the physical space in the constitution was not given, but the drafters were sure that for enjoying the fruits of Democracy, secularism is essential therefore, they made provisions for

⁶M. K. Gandhi, *India of my Dreams*.

⁷Seeravai H.M., "*Constitutional Law of India*"(4th ed.Vol .2).

⁸Jain M.P., "*Indian Constitutional Law*" (6th edition, 2010).

religious rights. They were also determined that the enlightened secularism is not going to impact in India.⁹

For almost 3 decades after Independence, INC was in power and during this period a pack of theocratic parties got emerged as competition to INC such as BJP, Shiv Sena, Muslim parties, etc. On considering the party's standard on one level, the unity of India on another level, and her selfishness on the third level, the INC headed by Smt. Indira Gandhi had passed the 42nd Constitutional Amendment, 1976, a 20 paged document, which brought a drastic change in India's political scenario. This amendment included the insertion of the term Secular in the preamble of the Constitution. The difference between the pre and post 42nd constitutional amendment concerning secularism was negligible and many criticized it for being made for political advantage.

Unlike others, where the countries were made secular through conflicts and violence, India was not prone to such happening but we conceived as a system that sustained religious and cultural pluralism. Curbing the upshot rise in communalism was also an important reason for the sudden insertion. The word 'socialist' was also added to send a message politically that she stood for the poor. The word 'secular' was meant for the welfare of minorities in the context of the birth control and family planning programs of the emergency period. It is not to be meant that the Constitution was not secular or socialist before 1976. India has been a secular state pre-42nd Amendment and continues to be the same after it, in the form of the basic structure of the constitution. It was merely a **political game**.¹⁰

THE ROLE OF JUDICIARY:

Another major institution that safeguarded secularism in the past but whose function deserves fresh reformation is the judiciary, whose attitude had been ambivalent in recent decades. The maintenance of the concentration of secularism ideology within the society will be at an optimum level only if the rule of law sustains and enables every citizen to get a sense of equality with others, irrespective of their disparities. For that, an eagle-eyed judiciary unbiased of religious ideas or motivation is required. While the Supreme Court is regarded as the guardian of our constitution, it sometimes gives contradictory

⁹Romila Thapar, "*Communalism and the Historical Legacy: Some Facets*", in K.N. Panikkar, (ed.), *Communalism in India: History, Politics and Culture*, (Manohar, New Delhi, 1991), p.24.

¹⁰ S. Abid Husain, *The National Culture of India* (NATIONAL BOOK TRUST, New Delhi, 1978), p.63.

decisions and even the lower judicial officers lean towards communal favouritism, thereby giving discriminatory rulings.¹¹

In **S.R. Bombay vs. Union of India**,¹² It was held:

“Religious tolerance and equal treatment of all religious groups and the protection of their life, property, and the places of their worship are an essential part of secularism enshrined in our constitution. While the citizen of this country is free to profess, practice and prorogue such religion, faith or belief as they choose so for as the state is concerned i.e. for the state the religion, faith or belief of a person is immaterial, all are equal and all are entitled to be treated equally.”

Further, the court while citing the importance of secularism declared that secularism is a basic structure of the Indian Constitution. The concept of secularism was not incorporated expressly in the constitution at the instance of drafting it. However, its role was visible in the fundamental rights and DPSPs. Nevertheless, the ideology was deeply scripted in the constitutional philosophy. The concept of secularism was elastic and not static in connotation. In this area, the nature of flexibility was most desired because the conceptualization for secularism will not be the same for all times. The judiciary contributed a lot from period to period in shaping the form of secularism for Indian society.

In **Aruna Roy vs. Union of India**¹³, the court held that if the basic features of all religions all over the globe are studied, learned, understood, and respected, then the concept of secularism is not endangered. Value-based education will help the country to overcome the image of fanaticism, ill-will, violence, dishonesty, and corruption. These values can be inculcated if the basic tenets of all religions are learned¹⁴.

In **Indira Gandhi V. Raj Narayan**¹⁵, the basic feature of the secularism was explained by the Supreme Court as follows; secularism means that the state shall have no particular religion of its own and all persons of the country shall be equally guaranteed the freedom of conscience and have the right to freely practice, profess the same and have also the right freely to profess, practice and propagate any religion.¹⁶

¹¹ D.E. Smith, *India as a Secular State*, (PRINCETON UNIV. PRESS, PRINCETON, New Jersey, 1963), pp.59- 60.

¹²[1994] 2 SCR 644; AIR 1994 SC 1918; (1994)3 SCC1.

¹³(2002) 7 SCC 368

¹⁴See, <https://www.advocatehoj.com/library/judgments/index.php?go=2002/september/20.php>

¹⁵ 1975 AIR, S.C 2299.

¹⁶See, <http://lawtimesjournal.in/indira-nehru-gandhi-v-raj-narain/>

In BalPatil and Anr. v. Union of India¹⁷ it was held that the:

- (1) The state will not itself identify with or be influenced or be controlled by any religion;
- (2) While the state guarantees everyone the right to profess whatever religion one chooses, it will not accord any preferential or discriminatory treatment to any of them.
- (3) It secures the conditions of creating a fraternity among the Indian people which assures both the dignity of the individual and the unity of the nation. The right of every citizen, subject to any general condition, to enter any offices under the state and religious tolerance form the heart and soul of secularism as envisaged by the constitution. It secures the conditions of creating a fraternity among the Indian people which assures both the dignity of the individual and the unity of the nation.

The Supreme Court has ruled that the State has no religion and the State has to treat all religions and religious people equally and with equal respect without in any manner interfering with their rights of religion, faith and worship.

SECULARISM v. SECULARISATION:

Secularity is that the non-presence of religion from particular areas of society, e.g., state and therefore the public sphere, and/or the minds and practices of individuals. Secularity in specific political and public spheres is also caused by politics of secularism or by the requirement for politics with state neutrality in terms of faith in a very society with several competing religions. Secularity is often objectively observed, recorded, measured, studied, and analysed by social sciences like history, sociology, and politics. The history of a rustic display the degree of its cultural secularity: how some aspects of culture are more a matter of non-secular responsibility and the way other matters don't seem to be. The sociological study of society can make us aware of why and how social institutions get entangled with religious influence but escape religious control. The political study of a country's constitution, laws, and bureaucracies can show whether its government has many or fewer entanglements with religion. There is no need for religions to object to the careful study of secularity.¹⁸

Secularism refers to the approval of secularity through philosophical justification and for preaching, promoting, and expanding secularity. There seems to be no convenient and appropriate terms

¹⁷See, <https://www.casemine.com/judgement/in/56ea980c607dba382a07968c>

¹⁸Ashis Nandy, *The Politics of Secularism and Recovery of Religious Tolerance*, in Veena Das, ed., *Mirrors of Violence*, (Delhi: OXFORD UNIVERSITY PRESS, 1990), 69-92; On the evolution of an "Indian secularism," see Rajeev Bhargava, *The Promise of India's Secular Democracy* (Delhi: OXFORD UNIVERSITY PRESS, 2010).

for opposing, and antonym to, secularism.¹⁹ Secularism is a system or ideology based on the principle that there should be a realm of knowledge, values, and action that is independent of religious control or authority, but it does not necessarily mean that religion must be excluded from having any role in social and political affairs. Secularization, however, is a process that does lead to exclusion.

Secularisation is not merely a shift or change in the religious institution or attendance or infrastructure, but also a fundamental shift in religious belief towards rationalization and objectification. The term refers to more of a process than the ideology.

The line of difference between secularism and secularization is that the former is more of a philosophical term or position about the way and manner things should be, while the latter is the effort to execute or implement that philosophy. Religious institutions may continue to voice opinions about public matters, but their actual authority and power are restricted entirely to the private domain: people who confirm their behaviour to the values of those religious institutions do so voluntarily, to neither lift-up nor dropdown emanating from the state.²⁰

SECULAR HUMANISM:

Secular Humanism is avowedly irreligious and non-religious. It is a eupraxsophy that draws its basic ethical values and principles from science, society, ethics, and philosophy. There are six essential characteristics for the Secular Humanism to operate. They are;--

1. It is a method of Inquiry.
2. It provides a Naturalistic Cosmic outlook.
3. It is Non-theistic.
4. It must be committed to human ethics.
5. Offers a democratic environment.
6. It is planetary in scope.

¹⁹ George Holyoake, *The Principles of Secularism*, *The Reasoner*, Jan. 8, 1854, reprinted in: Edward Royle, *The Infidel Tradition from Paine to Bradlaugh* (London: Macmillan, 1976): 151-152. 24; Martineau quoted in George Holyoake, *English Secularism: A Confession of Belief* (Chicago: Open Court, 1896).

²⁰ Bryan S. Turner, *Religion and Modern Society: Citizenship, Secularisation and the State* (Cambridge: Cambridge UNIVERSITY PRESS, 2011), 128.

Secular humanism is a philosophical approach of lifestyle that embraces human reasoning and conduct, secular values and ethics, and philosophical naturalism while expressly excluding religious dogmas, beliefs, supernaturalism, and superstition as the ground of morality and for decision making.²¹ Secular humanism is a non-religious concept rooted worldview in science, society, philosophical naturalism, and humanist ethics and values. Instead of relying on faith, superstitious beliefs, dogmas, doctrine, or mysticism, secular humanists use compassion, reasoning ability, statistical analysis, critical thinking, and human experience to find solutions to human problems.²²

Secular humanists promote values, integrity, benevolence, fairness, and responsibility, and believe that with reason, goodwill, the free exchange of ideas, and tolerance, we can build a better world for ourselves and future generations. Further, secular humanism maintains that, through a process of value inquiry informed by scientific and reflective thought, men and women can reach a rough agreement concerning values, crafting ethical systems that deliver optimal results for human beings in a broad spectrum of circumstances. Secular Humanism is broader than Atheism, Methodological naturalism, and Human ethics. Humanists must hold three virtues that are Courage, Cognition and Caring but not Dependence, Ignorance and Insensitivity. Secular Humanism is concerned with Justice and the common good.

FUTURE OF SECULARISM:

Communal politics has been the base stand of Indian affairs and development since before independence - there has since been a gradual increase in the vote bank politics within the current Indian political sphere. The earlier form of communal politics began with the establishment of separate and exclusive electorates based on religion for the Hindu and the Muslim communities. Be it the INC, BJP, Shiv Sena, BSP, Bajrang Dal, or Jan Sangh, Indian political parties have taken advantage of the religions and created vote banks to control the Indian political sphere. This practice sometimes leads to communal violence, envy, riots, clashes and tensions as some communities are made to feel inferior or superior depending on the position of the political party in power.

The eight threats to the freedom of expression:

²¹*What is Secular Humanism?*, Paul Kurtz, Prometheus Books, 2007.

²²See, <https://secularhumanism.org/what-is-secular-humanism/secular-humanism-defined/>

“The retention of archaic colonial laws, the imperfections in our judicial system, the rise of identity politics, the behaviour of the police force, pusillanimity or malevolence of politicians, the dependence of media on government advertising and careerists and ideologically driven writers.”

Out of these eight threats, the rise of identity politics is the most important i.e., vote bank politics.

India is usually called not as Hindu majority country but as a Hindu country itself. This perspective should be changed. Nowadays Hindu groups have transformed into a modern form called Hindutva (for example, RSS), which seems to be a threat to the minority group. Recently since 2018, there have been protests demanding to remove the term secular from the constitution by the RSS and Hindutva groups backed by BJP. This is not a good sign to secular India. On coming to cultural practices in state offices like carrying out Hindu rituals, though in certain areas are not opposed by other minority religions, it's the duty of the state to keep a check on these practices that they are overreached.

The next issue is the beef ban; it is not the concern of the state to regulate the food style of the people based on the religious sentiments, that too favouring only one religion. Maharashtra and Gujarat has implemented the beef ban, but if this continues then the freedoms enshrined in the Constitution would be confined by the Hindutva Groups. Concerning gender secularism in India, both in Triple Talaq and Sabarimala issue, the Judiciary has interfered with the religious rights of women under both the religion, instead of favouring one and leaving the other. In these two cases, the court has upheld the secular humanism equally to both the religions, but whether the state must prick into the religious sentiment is still a question.



CONCLUSION:

"OUR MISSION YOUR SUCCESS"

In conclusion, deriving a rigid definition of the term Secular is difficult; it is dynamic from one person's perspective to another's. First, the term is to be considered as a philosophical ideology, rather than a state's policy. Before the state implementing it, the subjects of the country must understand the nature of society in which they are and find out in what way the secular thought can intrude in it and act according to that. The term is, undoubtedly, hit hard and influenced by the political parties to their advantage for securing majority votes; this has led to political secularism. On the other hand, the Secular humanism is still an unreachable concept for India, this is because though we Indian thrive hard to get intellectual thoughts but we refuse or we are made refused to give up the religious and communal ideology completely, one way or the other we are influenced or forced to be influenced by them. The state can only make it a policy and not as a mandatory process among its subjects, if they do so it will lead to violence

and instability across the country and moreover, the leaders will not do so because they will lose their support from people. This is the reason why the Constitutional framers didn't include expressly the secular as the Core in the Indian constitution but only scattered it among the DPSPs. Another aspect of the author is that every word embedded in the preamble must be considered as a root to which all interpretation must confirm. If this phrase was duly carried out or obeyed by the state as well as its subjects then, there would have raised no demand for a term secular to be included expressly in the preamble because the preamble has the term Fraternity. It will take around half a century for the people to align their minds towards Secular Humanism and it is, according to the author, is the best form of Secularism. And for that alignment of mind education is important. Only knowledge can make the people wiser and the state must strive to provide education to all classes of people. India, now being Political secularism must transform into a Secular Humanism.

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