

Secularism & Constitution-A Study in India

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Abstract: When the word 'Secular' was borrowed from the west and placed into the preamble of our constitution by the founding members of modern India, the message they wanted to send out to the world and the value system they wanted to instill among Indians in a nutshell was that India will have no state religion, all the people in this ancient country are equal in the eyes of the government and the law thus shall live in peace and harmony. But what our modern leaders did was nothing unique or exemplary by adding secularism to India's constitution but rather made the concept of secularism redundant and betrayed the basic knowledge and essence that constituted India's ethos since time immemorial. India always followed the great tradition of 'Sarva dharmasambhava' i.e. all religions are harmonious with each other and lead to God and thus one can follow the path he or she chooses. Tolerance and harmony is a weave through Indian philosophy, culture and society since ages.

[Shokendra Kumar Sharma & Ashish Kumar Singhal. **Secularism & Constitution-A Study in India. Rep Opinion** 2013;5(6):32-36]. (ISSN: 1553-9873). <http://www.sciencepub.net/report>. 7

Keywords: Communalism, Politics, Civil Society, Secularism, Religion, Ancient India.

1. Introduction

Secular India has undergone several convulsions during the past 63 years, so much so that doubts about its survival were entertained by many. Some of them tend to relate these convulsions to the nature of Indian society, to which they attribute centrality to religion in both personal and public affairs. In such a society, it has been argued, secularism can only have a perilous existence, that too by compromising some of its basic tenets. This view has received academic respectability and political support: the former from those who had no faith in the ability of Indian society for institution building and the latter from those who were inimical to secularism as a political creed. The scepticism about secularism has only increased in recent times. The defenders of secularism are shrinking and some of them are exploring conditions beyond secularism. The weaknesses of secular practices add fuel to the fire: they confirm the doubts about the relevance of secularism in Indian conditions. At the same time, the unprecedented popularity that religiosity has gained has pushed secularism to the backyard. In assessing the state of secularism today, the impact of growing religiosity as well as the inadequacy of secular practices demand close attention.

2. Ancient Indian Culture

Born out of the great Hindu Vedic Dharmic tradition, between 200 BC and 300 CE, Buddhism swept through the length and breadth of the Indian sub continent catching the imagination of the rulers and the people alike. India from a 100%

Hindu nation became a Buddhist majority nation and remained so for nearly 500 years. Many Emperors and Kings converted to Buddhism and so did vast majority of the subjects but never did the converted rulers or their subjects persecute followers of the old faith i.e. Sanatana Dharma or Hinduism, as we know it popularly. The Gupta's, who were Hindu's, reined greater part of India from 320CE to 550 CE. They not only ushered in India's golden age but also presided over a golden Hindu renaissance.

Being staunch Hindus they gave impetus to Vedic Hinduism but also continued to patronize Buddhism by donating and supporting various Buddhist monasteries and universities. Even during the period of Islamic invasion and occupation starting earnestly in 1200 CE many Hindu kings during these very disturbing times continued to maintain Dharmic equanimity and promoted religious tolerance and equality. The Vijay nagar Empire(1336 CE to 1565 CE) the bulwark of Hindu resistance to Islamic onslaught in the Deccan and Peninsular India had a sizeable Muslim population residing within the city wall as well as in various parts of the empire but never during the interminable strife with the Bahamani Muslim sultans were these minorities mistreated. In fact, the rulers of Vijaynagar provided them patronage and privileges during their festivals and daily life. Whereas all the while neighboring Bahamani Sultans persecuted and mistreated their Hindu subjects. Here I digress to highlight a little known fact about Ala-ud-din Bahaman Shah also known as Zafar Khan or Hasan Gangu who founded the Bahamanisultanate and took the name 'Bahaman'

in honour of his Brahmin patron. Ala-ud-din was a Tajik-Persian slave, Brahmin Gangadhar Shastri Wabalesaved Ala-ud-din's life as a young boy and took him into his service. The boy Ala-ud-din was given good education and station in his life while all the time the good Brahmin never interfered in his religious beliefs. This I think is one outstanding example of true secularism in medieval India. Parsees, the fire worshipping Mazdians of Persia arrived in India around the 10 century escaping Muslim persecution in Iran. Parsees were welcomed and integrated into India society with local Raja's patronizing their fire temples and have gone on to contribute to India inversely proportional to their small numbers. Similar is the case with the Jews who were one of the first foreign religions to have arrived in India and found the only place in the world where they were never prosecuted for their religious beliefs (except in Goa where Portuguese prosecuted Jews on their arrival). In fact on the founding day of Israel, the Israeli parliament thanked the great people of India for being respectful, tolerant, supportive of their people and/or providing them a safe haven.

3. Mughal Period

Chatrapati Shivaji Maharaj (1642 to 1680) the epitome of a Vedic era Raja in medieval times exemplified tolerance and respect of all religions during a time when he was engaged in Dharma Yudh with one of the most tyrannical ruler of India, Emperor Alamgir better known as Aurangzeb the Mughal. Raja Shivaji not only forbade his troops from destroying places of worship of Muslims but also ensured that women and children were never molested. Offenders were severely dealt with, which was mostly a penalty of death. Once during a raid on Kalyan, a town in Thane district in Maharashtra, Maratha troops captured the wife of the local governor known for her extraordinary beauty but when she was presented to him as a war trophy, he raged at the generals and troops for their Adharmic conduct and immediately restored the woman to her husband. Maharaja Ranjit Singh (1780 to 1839) the Khalsa established a Sikh Kingdom born out of the misery of the people of the Punjab, land ploughed by the ravages of war for more than a 1000 years. In this war torn land he brought economic prosperity, tolerance and harmony among people who were at each other throats since anyone could remember.

With his capital at Lahore Ranjit Singh administered an empire which consisted of approximately 45% Muslims 35% Hindus and 20% Sikhs. He employed in his administration and army Muslims, Hindus, Sikhs and even Christian mostly European officers. Holi, Dipawali, Idulfitar, Christmas and birthdays of Sikhs Gurus were

celebrated with great fervor and festivity with equal support and patronage by the royal Khalsa durbar. Raja Ranjit Singh's closest confidant and Hakeem (doctor) was a Muslim and his trusted generals and ministers were Hindu Rajputs, Jats and Muslims. With these few illustrations I wanted to highlight that by adding an imported alien word like 'Secularism' meant for different land and people troubled by different problems is like showing the path to people who have already reached their destination. Indian ethos has always been of tolerance and harmony and respect for peoples of different faiths. India with a 17% Muslim (second largest Muslim population in the world) and 3 % Christian minority population, has endured and grown with peace and harmony not because of the word secularism in the law books but because people truly believe in mutual respect for each other's belief system. What we need is true understanding of our cultural roots and use it as a beacon to guide us forward and not look somewhere else for guidance.

4. Constitutional Provision

The monastery was granted asylum by the India and relocated to Mysore after the Chinese invasion of Tibet. The Preamble to the Constitution of India declares that India is a secular country. The term secularism refers to the governmental practice of indifference towards religion. Secular politics attempt to prevent religious philosophies or bodies from influencing governmental policies. The philosophy that the Indian constitution upholds is a kind of secular humanism made relevant through a historical development of the ideology within the context of religious pluralism in India. The Constitution of India prohibits discrimination against members of a particular religion, race, caste, sex or place of birth. The word secular was inserted into the preamble by the Forty-second Amendment.(1976) [1]

5. Merits & Demerits of Secularism

Secularism in India has very different meaning and implications. The word secularism has never been used in Indian context in the sense in which it has been used in Western countries i.e. in the sense of atheism or purely this worldly approach, rejecting the other-worldly beliefs. India is a country where religion is very central to the life of people. India's age-old philosophy as expounded in Hindu scriptures called Upanishads is sarva dharma samabhava, which means respect for all belief systems. This basic trait of Sanatan dharma is what keeps India together despite the fact that India has not been a mono-religious country for over 2 millennia. A Hindu Nationalist school of thought also proclaims that with Sanatan Dharma being the spirit of India, the very

concept of western secularism is redundant and badly imposed. India is one country where caste rigidity and concept of untouchability evolved and still plays a major role in religious, social and cultural matters. Caste dynamics in Indian life, even in Christian and Islamic societies, plays larger than life role. Since most of the conversions to Christianity and Islam took place from lower caste in us these two world religions also developed caste structure. There are lower caste churches and mosques in several places. Under feudal system there was no competition between different religious traditions as authority resided in sword and generally there were no inter-religious tensions among the people of different religions. They co-existed in peace and harmony though at times inter-religious controversies did arise. There was also tradition of tolerance between religions due to state policies of various kings since time immemorial from Gupta Kings to Ashoka and Akbar. Many religious sects and practices kept away from rigid intolerant forms. But, instances of forced conversions to Islam during tyrant rule of Aurangzeb and other rulers, and imposition of Religious tax, Jizya are also known. The Indian National Congress at the time of independence from British Raj adopted secularism, not as this worldly philosophy but more as a political arrangement. As power-sharing arrangement could not be satisfactorily worked out between the Hindu and Muslim elite the country was divided into two independent states of India and Pakistan, Muslim majority areas of North-West going to Pakistan. After independence and partition a large body of Muslims were left in India and hence the leaders like Gandhi and Nehru preferred to keep India secular in the sense that Indian state will have no religion though people of India will be free both in individual and corporate sense to follow any religion of their birth or adoption. Thus India remained politically secular but otherwise its people continued to be deeply religious. In India right from the British period main contradiction was not between religious and secular but it was between secular and communal. In the western world main struggle was between church and state and church and civil society but in India neither Hinduism nor Islam had any church-like structure and hence there never was any such struggle between secular and religious power structure. The main struggle was between secularism and communalism. The communal forces from among Hindus and Muslims mainly fought for share in power though they used their respective religions for their struggle for power. Jawahar Lal Nehru, the first Prime Minister of India was great champion of secularism and secular politics. Theoretically speaking the Congress Party was also committed to secularism. However, the Congress Party consisted of

several members and leaders whose secularism was in doubt. But it was due to Mahatma Gandhi, Nehru, Maulana Abul Kalam Azad and B.R. Ambedkar that India committed itself to secularism and its Constitution was drafted on secular lines. Secularism in India, as pointed out before, meant equal respect for all religions and cultures and non-interference of religion in the government affairs. Also, according to the Indian Constitution no discrimination will be made on the basis of caste, creed, gender and class. Similarly all citizens of India irrespective of ones religion, caste or gender have right to vote. According to articles 14 to 21 all will enjoy same rights without any discrimination on any ground. According to Article 25 all those who reside in India are free to confess, practice and propagate religion of one's choice subject of course to social health and law and order. Thus even conversion to any religion of ones choice is a fundamental right. Now question arises how many Indian people are secular and how many unsecular? Since secularism does not mean being this worldly in India, one cannot say how many are believers and how many unbelievers? On the contrary in Indian context what it means how many people are against people of minority religions like Islam and Christianity and how many people respect them. In fact in India an overwhelming majority of people are religious but tolerant and respect other religions and are thus 'secular' in Indian context. Even Sufis and Bhakti Saints are considered quite secular in that sense. There are some rationalists and secularists who reject religion in its entirety but such rationalists or secularists are extremely few. Though there are no census figures available but one can safely say they are less than 0.1% in India. Also, there are extremely orthodox people who exhibit rigidity and intolerance towards other faiths though of course not on communal grounds but on the grounds of religious orthodoxy but they too are in minuscule minority. Tolerance in India among people of all religions is widely prevalent. It is perhaps due to influence of ancient Vedic doctrine that truth is one but is manifested in different forms. Thus the real spirit of secularism in India is all inclusiveness, religious pluralism and peaceful co-existence. However, it is politics, which proved to be divisive and not religion. It is not religious leaders by and large (with few exceptions) who divide but politicians who seek to mobilise votes on grounds of primordial identities like religion, caste and ethnicity. In a multi-religious society, if politics is not based on issues but on identities, it can prove highly divisive. Politicians are tempted to appeal to primordial identities rather than to solve problems. The former case proves much easier. The medieval society in India was thus more religiously tolerant as it was

non-competitive. The modern Indian society, on the other hand, has proved to be more divisive as it is based on competition. Thus in case of India one can say by and large it is secular in as much as it is religiously plural and tolerant but there are politically divisive forces quite active and create communal pressure and widen the gap between religious community thus bringing Indian secularism under threat. (Secular Perspective) « The history of Indian secularism begin with the protest movements in the 5th century B.C. The three main protest movements were by the Charvakas (a secularistic and materialistic philosophical movement), Buddhism, and Jainism. All three of them rejected the authority of the Vedas and any importance of belief in a deity. However, it was in the 18th century, when the British East India Company began to gain total control over India that ideas of secularism began to have impact on the Indian mind. Until then, religion was considered to be inseparable from political and social life. On the other hand, the British codified laws pertaining to practices within religions on the sub-continent. To this effect they instituted separate laws for Hindus, Muslims, Christians, Sikhs, Parsis and others as part of their divide-and-rule policy. In doing so they laid the foundation for a nonuniform civil code which remains largely unchanged to date. This is a major grouse for Hindu politicians who insist that there should be a uniform civil code for all citizens. For example, believers of all faiths other than Islam are legally bound to be monogamous while those who practice or convert to Islam are permitted up to four marriages, which is therefore not uniform behavior. Religious and Secular laws As the Shah Bano case demonstrated, successive governments have failed to enact a uniform civil code as regards to marriages, and in this case, the dissolution thereof. A significant observation from this case was that despite a direct ruling from the Supreme Court of India, the Rajiv Gandhi government, in pandering to the Muslim vote bank. not only failed to protect the interests of a divorced female in a secular and even handed manner (Shah Bano was 62 and a mother five when her husband divorced her), the Muslim Women (Protection of Rights on Divorce) Act, 1986 was enacted, further exacerbating Muslim women's plight.

Here the common civil code is not being taken by the Islam (organization in INDIA) as they have different faith than just law. Here the common civil code of the secular country & the Islam law collides. While the pluralist view of Mahatma Gandhi, that all religions are equal, has a strong impact, there are movements like those of the dalits (depressed classes) and the communists who have criticized such a view. Gandhi himself was a devout man and instilled devotion in the Independence Struggle. But still he

was killed by a religious person for his adherence to minority appeasement calling it secular principles. However, there is obvious difference between secularism practiced in India and elsewhere.

6. Recommendation

The western model of secularism means that religion and politics are separate from each other (Caesar and God theory). In other words, polity does not enter in religious affairs and religion in political affairs. This also means that political mechanism cannot correct problems inside a religious group. However, Indian society being a mixture of religions, is always prone to dominance and conflicts. Moreover, the issues such as casteism is particularly of religious origin. In order to mitigate the harmful effects of casteism and other source of conflicts and human right violations arising out of religions, it is necessary that polity/government be able to meddle with religious affairs. As a result of several year's efforts to detoxify the religions, Government has been able to reduce the effects of casteism and modernize the Hindu personal laws. However, the country is far from having a common civil code. As far as other religions are concerned, government has only limited success in correcting human right violations such as atrocities against women in Islam. However, ability of Government to indulge in religious affairs also boomeranged. Religions and castes increased their influence on political parties. As a result, politico-religio-regional chauvinism is becoming more common in contemporary Indian Politics.

7. Conclusion

Thus, practising the Indian Brand of secularism (mutual tolerance instead of mutual respect) in the last 60 years, failed to produce communal harmony and trust. Liberhann Commission which investigated the Babri Masjid Incident, has recommended that religion be delinked from politics and that Politicians must not garner votes preaching religion or caste. The Indian experiment on secularism is here to continue. Writing in the Wall Street Journal, Sadanand Dhume criticizes Indian "Secularism" as a fraud and a failure, since it isn't really "secularism" as it is understood in the western world (as separation of religion and state) but more along the lines of religious appeasement. He writes that the flawed understanding of secularism among India's left wing intelligentsia has led Indian politicians to pander to religious leaders and preachers including Zakir Naik, and has led India to take a soft stand against Islamic terrorism, religious militancy and communal disharmony in general. A R Kavi cites attempts by Islamist sympathizers to whitewash history books concerning Muslim

conquest in the Indian subcontinent as another example of India's "secularism". In India, blaming Kashmiri Pundits for their own ethnic cleansing from ancestral lands since time immemorial is passed off as secularism. So is blaming pilgrims, like in Godhra massacre, for their own massacre. Others, particularly historian Ronald Inden, have also observed that the Indian government is not really "secular", but one that selectively discriminates against Hindu communities while superficially appeasing Muslim leaders (without actually providing any community or theological benefits to regular Muslims in India). He writes that poorly educated Indian so-called "intelligentsia" identify Indian "secularism" with anti-Hinduism and even a tacit Islamophobia. He also cites that often, leftist governments in India (such as in the Indian state of West Bengal) covertly support madrasa curricula for Muslims, helping traditional Islamic scholarship and teaching fundamentalism in "Islamic" disguise.

Acknowledgement:

Authors are obliged towards the cooperation given by library staff of Jawaharlal Nehru University, New Delhi for collection of data.

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6/4/2013